

**NORTH KOREAN REFUGEES AND THE IMMINENT
DANGER OF FORCED REPATRIATION FROM CHINA**

HEARING
BEFORE THE
**CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA**
ONE HUNDRED EIGHTEENTH CONGRESS
FIRST SESSION

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JUNE 13, 2023
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NORTH KOREAN REFUGEES AND THE IMMINENT DANGER OF FORCED REPATRIATION FROM CHINA

TUESDAY, JUNE 13, 2023

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The hearing was held from 10:03 a.m. to 12:09 p.m., in Room 2020, Rayburn House Office Building, Washington, DC, Representative Chris Smith, Chair, Congressional-Executive Commission on China, presiding.

Also present: Senator Jeff Merkley, Co-chair, and Representatives Nunn and Wild.

OPENING STATEMENT OF HON. CHRIS SMITH, A U.S. REPRESENTATIVE FROM NEW JERSEY; CHAIR, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Chair SMITH. This hearing on the desperate plight of North Korean refugees who face imminent danger of forced repatriation from China will come to order.

Some of you may have crossed the Potomac River to attend this hearing today. It flows, as we all know, beside our nation's capital past many iconic landmarks. For those who are currently watching this hearing from South Korea, the Han River flowing through Seoul likewise holds tremendous historical, cultural, and economic importance.

However, for many North Koreans who brave the treacherous journey across the Yalu and Tumen Rivers—natural borders between North Korea and China—those rivers represent only sorrow and terror. These rivers have been their only means to escape from the world's cruelest family dictatorship, necessitating desperate crossings by small boat, swimming directly, or walking across frozen waters amid the bitter Korean winter—all while knowing that an alert border guard with shoot-to-kill orders could end their lives in an instant.

Even after successfully crossing the Yalu and Tumen Rivers, the plight of a North Korean refugee can rapidly take a turn for the worse. Startling estimates indicate that up to 80 percent of female North Korean refugees become victims of human traffickers, who exploit them in the lucrative sex trade industry. It is believed that the illicit trade generates over \$105 million annually for North Korean and Chinese criminal networks.

I would note, parenthetically, that in one of my previous hearings, Suzanne Scholte—and without objection her comments will be made part of the record—came and she brought two women, a mother and a daughter. Now, their story was that the other sister, the woman's daughter escaped—I would put that in quotation marks—to China. She was sold into slavery, into sex trafficking. The mother and daughter then went into China looking for that daughter, and they were enslaved as well. All three of them forced into sex trafficking. But by the grace of God and some very, very kind-hearted and empathetic people, they were able to escape, and they made their way to South Korea, and ultimately to our hearing room to tell their amazing stories. That is the plight of so many of these women who make their way into China.

The lucky ones try to remain hidden. According to a recent report by Global Rights Compliance, an international human rights law firm, there are approximately half a million female North Koreans, some as young as 12, hiding in border regions, for if they are discovered they face the likelihood of forced repatriation or, to use the technical term, *refoulement*, to North Korea.

Today's hearing is especially timely because we have good reason to believe that such repatriation is imminent, as North Korea reopens its border following extended closure in the wake of the COVID-19 pandemic. It is reported that approximately 2,000 North Korean refugees, perhaps many more, are awaiting imminent forced repatriation which would subject them to severe human rights violations upon their return to North Korea, some of which we will hear about in testimony from our amazing panel that is assembled here today.

I shared this deep concern regarding the perilous situation of North Korean refugees in China directly with Antonio Guterres, the Secretary-General of the United Nations, when he visited my office on April 27th. I believe that while there are limits to what our government and the South Korean government can do to influence China's decision making—although we need to do everything we can possibly do to influence that—the U.N. is well positioned and ideally suited to use its influence, given how much the Chinese government seeks validation from, and indeed seeks to influence, the United Nations system.

So, again, I ask with deep respect of Secretary-General Guterres: Please use your influence to the utmost to dissuade the Chinese government from forcibly repatriating these refugees. It is also extremely important that the United Nations High Commissioner for Refugees, Filippo Grandi, take on a more active role on behalf of these refugees.

One of our highly distinguished witnesses today, who will be coming in via Zoom, Ambassador Jung-Hoon Lee, points out in his testimony—and I quote just a small part of it—“The legal tools are there for the UNHCR to do more for the North Korean defectors. The UNHCR concluded a bilateral agreement with China in 1995 that granted the UNHCR staff in China unimpeded access to refugees within China. Determining who is a refugee requires interviewing the prospective asylum seekers. With China strictly preventing UNHCR access to North Koreans near the border, the process towards refugee recognition has been completely thwarted,” he

states. “The forcible repatriation of North Koreans seeking refugee status in China is a blatant breach of Beijing’s obligations under the 1951 U.N. Convention Related to the Status of Refugees and its 1967 Protocol.”

On May 30th, the U.N. Committee on the Elimination of Discrimination against Women issued the findings of its review of China, calling for unrestricted access by the UNHCR and relevant humanitarian organizations to victims of trafficking from North Korea in China. CEDAW has also recommended that China regularize the status of North Korean women who face human rights violations, such as forced marriage and human trafficking, and refrain from cracking down on them due to their undocumented status.

Against all of this moral pressure and legal pressure as well, there are malign incentives—both political and economic—for the People’s Republic of China to repatriate refugees to North Korea. North Korea and its dictator Kim Jong-un view those who flee the dictatorship as traitors, which gives China a political incentive to placate a communist ally that remains a thorn in the side of the United States and all freedom-loving people. A written submission for this hearing, which I ask to be entered into the record and without objection, from Citizens’ Alliance for North Korean Human Rights, a human rights NGO based in Seoul, sheds light on the disturbing economic incentives that China has in forcibly repatriating these refugees.

According to their ongoing investigation, “There is a high probability that a portion of products originating from North Korea but produced for Chinese companies have been made in prisons detaining repatriated North Korean refugees from China using forced labor and other human rights violations.” This suggests that businesses in China are profiting from the exploitation of repatriated North Korean refugees, an issue that demands thorough investigation and accountability.

There is, of course, a role that both the South Korean government and our government, and indeed Congress and this Commission, can play. The CECC does report on the situation of North Korean refugees in China in its annual report, and this year will likely issue a stand-alone report on the issue, while today’s hearing is an example of how we can bring attention to this impending humanitarian crisis and disaster. I myself have chaired seven congressional hearings on North Korean human rights, and I have also introduced new legislation, H.R. 638, the China Trade Relations Act of 2023, that withdraws China’s Permanent Normal Trade Relations, or PNTR, status unless there are substantial and sustained improvements in human rights, including how it treats refugees within its borders.

The refugees in question are not mere statistics. Each and every one of these people is an individual with inherent rights, hopes, dreams, and aspirations. China has failed to confront the human traffickers who prey on vulnerable North Koreans. Indeed, they are complicit. If Beijing wishes to be recognized as a true leader in the global community, it must not be complicit in the plight of North Korean refugees in China who are under imminent danger of repatriation. Human rights transcend mere privilege. They are an in-

herent entitlement. We cannot turn a blind eye to China's complicit and flagrant violations of these rights.

I am looking forward to our distinguished witnesses. And I'm very proud to introduce our co-chair of this Commission, Senator Merkley.

STATEMENT OF HON. JEFF MERKLEY, A U.S. SENATOR FROM OREGON; CO-CHAIR, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Co-chair MERKLEY. Thank you very much, Chairman Smith. This Commission tries to do its part to shine a light on the plight of North Korean refugees in China, with this year marking the 20th year that we have dedicated a chapter of our annual report to this topic. Yet, we last held a hearing on this eleven years ago, so this hearing is way overdue. And thank you for arranging it.

In many ways, not much has changed. In fact, the announcement for the Commission's first public event on North Korean refugees, way back in 2004, included many of the same characterizations we'll hear about today—desperate individuals fleeing North Korean government prosecution and severe food shortages—and Chinese authorities' willful refusal to assess any of these individuals as refugees, stonewalling U.N. Refugee Agency efforts to help those in need.

Precisely because so little has changed is why we can't avert our eyes. Human rights abusers play a waiting game, waiting for the world to grow weary, outrage to dissipate, and people to move on. But those who are suffering cannot move on. The North Korean and Chinese governments are playing the same cynical game, and we can't let them off the hook. As we'll hear about today, the Chinese government has obligations under Chinese law, under international law, and in accordance with basic humanitarian decency, to provide individualized determination of the refugee status of asylum seekers.

Instead, China's approach flouts the principle that anyone has the right to seek asylum, treating all North Korean escapees as illegal immigrants. If anything, this is backwards and all North Koreans who escape to China should be understood to be at risk. The 2014 U.N. Commission of Inquiry on Human Rights in North Korea was clear. The forcible repatriation of thousands of North Koreans subjects them to crimes against humanity. Just being a North Korean in China means an individual would be in grave peril if sent back to North Korea.

The U.N. Commission of Inquiry was equally clear about that. China's approach violates the international principle of nonrefoulement, which is supposed to guarantee that nobody will be repatriated to a country where they would face torture; cruel, inhuman, or degrading punishment; and other irreparable harm. Irreparable harm is what awaits the vulnerable North Koreans that Chinese authorities plan to send back to the gulag.

As much as has not changed on this topic over the last two decades, we're also holding this hearing because of what has changed. COVID-19 changed much in our world, and the landscape of North Korean defection is no different. Border closures and tougher travel restrictions on both sides of North Korea's border with China made

defection more difficult and more expensive. Now, the potential easing of North Korea's border closures raises the specter that China will again start forcibly repatriating North Koreans.

The other thing that has changed is the same thing we observe in so many other contexts: China's Orwellian surveillance state supercharges its ability to keep an eye on the people it seeks to control—including, sadly, North Korean refugees. Vulnerable people facing either repatriation or hiding now face a much more difficult task in remaining hidden or in receiving help without catching the attention of authorities who wish them ill. This all leaves a bleak situation for North Korean refugees in China, but those of us fighting for human rights should not shy away from the challenge, and instead must redouble our efforts.

I look forward to our witnesses' counsel on what we can do. And just on a personal note, I traveled to South Korea and to the China/North Korea border where the three highways exist, a few years ago. In South Korea I met with refugees, some of whom had swum across the border, some of whom had crossed the land border with China, some who had come through the Demilitarized Zone.

And one young woman whom I'll never forget, escaped only to be returned as a teenager with her father. He faced horrific punishment. She faced less harsh punishment, but still a very difficult course. He encouraged her to escape again, knowing what would happen to his family. But she actually did succeed. And I think about that father trying to get his daughter to freedom, knowing the torture that he would be facing. Anyway, we're going to hear from you all, as experts, and I'm so glad you've come to share your knowledge, your experiences. Thank you.

Chair SMITH. Thank you, Senator Merkley, very much.

I'd now like to welcome our distinguished panel, beginning first with Ambassador Robert King, a long-time friend dating back to when he served as chief of staff to Congressman Tom Lantos and as Democratic staff director of the House Foreign Affairs Committee from 2001 to 2008. All told, he spent 25 years on the Hill, which is a very long time. Ambassador King came and served with great distinction as Special Envoy for North Korean Human Rights Issues at the U.S. Department of State from 2009 to 2017, which also makes him critically positioned to give testimony to us today as he did previously in December of 2017, before a Foreign Affairs Committee hearing that I chaired. He did a tremendous job then and is a fount of knowledge and insight, and counsel and wisdom.

Ambassador King has also been a senior advisor to the Korea Chair at the Center for Strategic and International Studies. And it is in that capacity that both he and I served as panelists at a conference not so long ago cohosted by Stanford University, entitled "North Korean Human Rights at a New Juncture." This is a pleasure to welcome back Ambassador King. Bob, thank you for being here.

Then we'd like to introduce our next panelist, who will be Ambassador Jung-Hoon Lee, who is currently the dean at the Graduate School of International Studies at Yonsei University in South Korea. Like Ambassador King, Ambassador Lee is also critically positioned, well suited to serve as a witness, for he served as the inaugural ambassador-at-large on North Korean Human Rights for

the Republic of Korea, as well as its ambassador for human rights overall. It was in this capacity that he appeared before our Commission in 2014, briefing Congress about the human rights abuses and crimes against humanity in North Korea. His academic affiliations include a visiting professorship at Keio University in Japan, and senior fellow at Harvard's Kennedy School.

Ambassador Lee currently advises the Korean government as chair of the National Unification Advisory Council's International Affairs Committee, chair of the Ministry of Unification's newly created commission for North Korean human rights, and policy advisor to the National Security Council. He is a board member of the Committee for Human Rights in North Korea in Washington, DC, and he is, as is Ambassador King, an international patron of Hong Kong Watch in London, which advocates on another issue very close to the hearts of members of this Commission. Ambassador Lee received his B.A. from Tufts University, an M.A.L.D. from the Fletcher School of Law and Diplomacy, and his Ph.D. from the University of Oxford St. Antony's College. Again, welcome Ambassador Lee.

We'll then hear from another distinguished witness, Dr. Ethan Hee-Seok Shin. Dr. Shin is a legal analyst at the Seoul-based human rights documentation NGO Transitional Justice Working Group. He too testified before Congress almost a year ago in a hearing of the Tom Lantos Commission, again, evaluating the openness towards refugees signaled by the new Yoon administration. He offered cutting-edge policy recommendations at that time, and we look forward to benefiting again from Dr. Shin's testimony on an urgent and equally important issue.

It is my understanding that Dr. Shin has been interviewing North Korean escapees who make their way to South Korea through China, in order to record enforced disappearances and other grave human rights violations, to make submissions to the U.N. human rights experts on their behalf, and set up Footprints, an online database of the people taken by North Korea. He is an advocate for ending China's policy of indiscriminate refoulement for the North Korean refugees without individualized determination, an issue raised at the U.N. Committee for the Elimination of Discrimination against Women, as I mentioned just a few moments ago. Dr. Shin holds a Ph.D. in international law from Yonsei University in South Korea, and an LL.M. from Harvard Law School. Welcome back, Dr. Shin.

And finally, we'll hear from Hanna Song, who is here to share her incredible insight into the current situation for North Korean defectors in China, along with some new up-to-date satellite images. Currently, she is Director of International Cooperation and a researcher at the Seoul-based North Korean human rights NGO Database Center for North Korean Human Rights, or NKDB. In this capacity, Ms. Song has been given rare access to North Korean escapees from China. Her organization, officially established in 2003, has recorded over 130,000 entries related to human rights violations in its unified human rights database, carried out advocacy based on the data, and has also provided resettlement support to North Korean escapees.

NKDB has interviewed over 20,000 North Korean escapees who have resettled in South Korea. Through interviewing North Korean escapees who have recently entered South Korea since the pandemic, NKDB has been able to examine the current situation in China and how COVID-19 has changed the landscape of North Korean defection. Ms. Song will share today for the first time some of the satellite images of the Chinese detention center where North Korean refugees are believed to be detained. As NKDB's director, Ms. Song has briefed diplomats, policymakers, and foreign correspondents on the human rights situation in North Korea. She has created partnerships with international stakeholders, research institutions and universities, and NGOs overseas.

I'd now like to recognize Commissioner Nunn.

**STATEMENT OF HON. ZACHARY NUNN,
A U.S. REPRESENTATIVE FROM IOWA**

Representative NUNN. Chairman Smith, thank you very much for holding this very important hearing today. To the panel that is with us, we are privileged to both learn from you and hopefully take away some of the key insights on where the United States can be a leader with allies in Asia to be doing the right thing. As we look at the grave human rights violations being committed by North Korea, we see a China that is complicit.

In my military service, I've been privileged to serve on the DMZ in South Korea with our allies in the area and witness the defectors who come across to the South seeking a better life not only for themselves, but for the country that they know and have loved so well, that of all of the Korean people. They are constantly stymied by the fact that a totalitarian regime in Pyongyang is suppressing not only their right to free speech but their very existence in the world.

Today we're going to be examining the brutal circumstances of North Koreans who have tried to leave their home, the lack of cooperation by Xi to provide them any safe haven, and the asylum seekers who stand at the border in detention facilities—not those who have tried to flee to South Korea, but those who have gone north to China only to be rebuffed and returned to a heinous situation. The people of North Korea, let's make no mistake about it, are being murdered, starved, and worked to death every year under Kim Jong-un.

With limited references to be able to cite because of the dark kingdom's suppression of any information leaving North Korea, we know this: The number of people killed in North Korea every year is estimated at between 300,000 and 800,000. That's the equivalent of my congressional district back in Iowa being wiped out in one year. It is believed that there are roughly 15 to 25 mass forced labor camps throughout the country as well, where individuals are forced to toil for the interest of one individual who puts himself before an entire nation.

And on the other hand, we have China, the United States' main trading partner in Asia and one of the largest benefactors of international financing institutions, and a force in its own right under the global influence of the Belt and Road Initiative. But the reality has never been clearer: China and North Korea are criminals of

human rights, cut from the same cloth. Recent reports show that there are currently 2,000 North Korean asylum seekers being held in detention centers near the China-North Korea border. These individuals have endured unimaginable horrors to both themselves and, importantly, to their families.

They have escaped one of the most oppressive nations on Earth, only to be thrown straight back into that meat grinder by the Chinese government. According to the United States Department of State, the North Korean refugees repatriated from China face forced labor, forced abortions, torture, and even execution. These crimes against humanity have only increased under the severity of Kim Jong-un's rule. China's refusal to acknowledge not only the sins of North Korea, but to be complicit in returning these individuals, makes them equally culpable.

For the past two decades, this committee has examined China's blatant ignorance when it comes to international commitments to refugees and has noted that China denies humanitarian organizations the ability to help those who are most in need, and falsified critical data relating to the scope and severity of North Korea's refugee crisis, intentionally misinforming the rest of the world. China's continued repatriation of North Korean refugees signals to the rest of the world that the Chinese Communist government has never been, nor will it ever be, a safe harbor for freedom and liberty for those seeking a better life, whether those fleeing North Korea or those within its own borders.

Here in the United States, we must not forget the liberty and freedom we enjoy every day, particularly when in stark relief to what's going on in Asia. On this Commission, our men and women in uniform, all those working to spread democracy around the world, are behind those struggling in places like North Korea, and even those in China. So, Mr. Chair, I call on this bipartisan Commission, with the administration, to continue holding the CCP accountable for its inaction, and Kim Jong-un specifically for his role as a grave human rights violator, and for the hope of all those wishing to live a freer and more prosperous life.

Further, I would specifically ask the premier of China and Beijing to condemn Kim Jong-un's regime. It is well past time that we hold these individuals accountable, that they cooperate with asylum seekers and grant hope to those trapped in a land of darkness. Additionally, I call on our international institutions to decrease their tolerance for inclusion of nations that continually violate human rights and to close loopholes that allow countries like China to exploit international financial institutions to fund the autocracies occurring across the globe, without holding themselves accountable to the same standards.

And, with that, Mr. Chairman, I yield back my time but thank our speakers today for their frontline evidence being entered into testimony today. You are the front line and the safeguard of what we're doing going forward. Thank you, Mr. Chair.

Chair SMITH. Commissioner Nunn, thank you very much for your comments, and the background you bring to this Commission is extraordinary.

I would say to our witnesses, as I go to Ambassador King, that normally there's a five-minute rule. But you know, what you have

to impart is so important, if you go up to 10 that would be fine. The important thing is that you really have your say. We need to hear it, then we will go to questions. So, Ambassador King, the floor is yours.

**STATEMENT OF ROBERT R. KING, FORMER SPECIAL ENVOY
FOR NORTH KOREAN HUMAN RIGHTS ISSUES, U.S. DEPARTMENT OF STATE**

Ambassador KING. Thank you very much, Mr. Chairman, Mr. Co-chairman. The Commission has played a very important role in terms of calling attention to the human rights violations of China, and I'm grateful for the opportunity to talk about these particular issues that we're dealing with with the North Koreans.

The flow of Koreans back and forth between northeastern China and the Korean Peninsula is something that has been going on for centuries. There are something like 25 million North Koreans, 50 million South Koreans. But there are also 2 million Koreans living just across the border in China. So there's a lot of economic and family relationships that continue to play a role in terms of moving back and forth. The issues of North Koreans going through China and to China has been something that over time has changed.

During the Cultural Revolution when conditions were difficult in China, there were Chinese who were coming to North Korea, which with Soviet assistance was doing very well economically. In the 1990s, when North Korea was facing fairly serious problems with the collapse of communist support elsewhere, there were significant numbers of North Koreans who went to China and were able to find jobs there, as they were being employed.

One of the things that I found very interesting was when I was in China on the North Korean-Chinese border, Sinuiju and Dandong, there were a large number of North Korean citizens who were employed in China who were returning to North Korea. We happened to walk into the train station and saunter around to see what was going on. The numbers were significant. These were young women who were working as seamstresses. They were living and working in China, but they were North Koreans. And this kind of activity back and forth has been something that's been going on for some time.

There are differences among North Koreans who are going to China. There are North Koreans who find jobs in China through the North Korean government—source of employment, a source of funding for the North Korean government. And they're able to do it. The North Korean government, of course, takes a healthy rake-off for providing the workers. There is a second group of North Koreans who work in China. These are North Koreans who go on their own, who illegally cross the border, who work illegally in China, but there are opportunities. There are lots of Korean speakers in the areas they go to, and they're able to find opportunity, find jobs, and support themselves and their families.

And there's a third group of North Koreans who go into China. And those are North Koreans without the approval of their government who are seeking to flee North Korea because of the human rights abuse and other violations. And there are significant numbers of North Koreans who go to China to get out of North Korea

because it's fundamentally the only way to get out of North Korea. Other options are not really viable. The safest route is going through China.

There are some interesting changes that have taken place recently. The COVID pandemic has created great difficulty for North Koreans who are attempting to leave North Korea. One of the things the North Korean government has done; it's done very little to deal with the problem of COVID, rejected offers of vaccine; but they have very strict requirements limiting public contact, limiting movement of people, and so forth. The net effect has been that the North Koreans who try to leave the country are being stopped by border patrols who are trying to prevent North Koreans returning, because they might be infected with COVID.

COVID has created real difficulties in terms of these numbers. There are large numbers of North Koreans over the last couple of decades who have left North Korea and been able to find homes elsewhere, primarily in South Korea, some in the United States, some in Europe. Over the last two decades, there are somewhere in the neighborhood of 34,000 North Koreans who have left North Korea, primarily through China, and been able to get out and go to South Korea.

The numbers have varied over time. The highest one-year total of escapees was 2,700 in 2011. From 2012 to 2016, there were 1,500 a year that were getting out. From 2017 to 2019, 1,100 a year were successfully getting out. When the first COVID case was diagnosed in China in November 2019, the North Koreans shut the border. The number of individuals who were able to leave North Korea and find their way to South Korea during 2020 was 229. In 2022, that number was 67. So from a high of over 2,700, we're down now to 34 who have escaped so far this year.

In addition to the numbers who've gone to South Korea, there are a few who've come to the United States, somewhere around 200 over the last couple of decades. There are about 600 who found places in England, the United Kingdom. There are a few others that have found opportunities elsewhere. But the numbers are down. The North Korean government has created problems because it is so afraid of the spread of COVID that they have stopped North Koreans from being returned. The Chinese have arrested North Koreans. The North Koreans will not accept them. And this has created problems, difficulties for the North Koreans who are trying to deal with these problems.

The difficulty with North Koreans not being able to return to North Korea means people who want to return, who have families there and want to return, are not able to be there. They're held by the Chinese. The Chinese hold them in camps, where they are basically prisoners, so they can repatriate them to North Korea. There are offers from South Korea and other countries to take North Korean refugees. Those are denied. The Chinese will not release these individuals. They're going to return them to North Korea.

I met with Chinese government officials when I was special envoy on several occasions to raise concern about their treatment of North Koreans who are captured in China to see if there's some way of pressing the Chinese to take a more humane approach to these issues. I was singularly unsuccessful. I met with North Ko-

rean officials at the United Nations in New York, at the U.N. Human Rights Council in Geneva. I visited China on a number of occasions, met with senior officials in the foreign ministry, with senior officials in the Party's international department. All of them said: These are North Koreans. The North Korean people want them back. We will return them.

We need to continue the effort to press the Chinese because these people are being denied their free choice of where they want to go. And they're being held in inhumane conditions in China. If they are returned to North Korea, the North Koreans will send them to prison. Some of them will not survive imprisonment there. We need to continue the effort to press the North Koreans to allow these people not to be held. And we need to press the Chinese to release the North Koreans they are holding and who are not being returned to North Korea, because the North Koreans are not willing to hold them.

We need to continue to call attention to the problem because one of the ways of getting the Chinese to pay attention to the issue is to create bad publicity for China, and hope that it eventually moves them to do the right thing. I look forward to questions and look forward to continuing the discussion on this serious problem. Thank you.

Chair SMITH. Ambassador King, thank you so very much.

I'd now like to yield such time as he may consume to Ambassador Lee, who is joining us up on the board there.

Ambassador Lee.

STATEMENT OF JUNG-HOON LEE, DEAN, GRADUATE SCHOOL OF INTERNATIONAL STUDIES, YONSEI UNIVERSITY, AND FORMER SOUTH KOREAN AMBASSADOR-AT-LARGE FOR NORTH KOREAN HUMAN RIGHTS

Ambassador LEE. Good morning. Good morning and greetings from Korea. I thank Chairman Chris Smith—it's great to see you again—and Co-chair Jeff Merkley, Representative Zachary Nunn, ranking members of Congress and the executive branch for giving me this opportunity to address you today. I'm greatly honored to provide a statement to this Commission on the situation of North Korean refugees in China. The last time I attended a congressional hearing was, as you mentioned, in June 2014, when I was invited by you, Chairman Smith, to the House Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations of the Foreign Affairs Committee.

At that time, I emphasized that genocide on top of crimes against humanity was being perpetrated in North Korea. Well, nine years have passed. But sadly, no progress has been made. Deprivation of fundamental human rights continues as people languish under the near eight-decade-long tyranny of the Kim dynasty. In a normal state, national security is pursued to ensure human security. Yet, in North Korea national security ensures only regime security. The state takes no responsibility to protect its own people. It is no wonder North Koreans resort to taking refuge across the border. They do so because there's no hope in a country ruled by political prisons, torture, hunger, and public execution, completely devoid of the

fundamental right to an adequate standard of living, not to mention life.

So why no progress? I will point to five factors. Number one, despite the outstanding findings and recommendations made by the Commission of Inquiry in 2014, the U.N. has failed to follow up, especially on accountability measures. Number two, South Korea's Moon Jae-in government pursued for five years a delusional peace policy that totally disregarded human rights issues. Such a policy had an impact even on the U.S. as well. The Peace on the Korean Peninsula Act, H.R. 3446, is a case in point. It calls for peace but completely ignores human rights. Number three, the media's fixation on Kim Jong-un's nuclear ploy, as well as his public persona, which has had the effect of downplaying human rights. Number four, the previous Trump administration's ill-conceived attempt to woo Kim Jong-un, which helped to skirt human rights issues. And finally, and this was mentioned by Ambassador Bob King, COVID-19, and the complete closure of North Korea's border, also contributed to the lack of progress because the country was completely shut down.

The plight of the North Korean refugees in China stands out as one of the most troubling challenges to the UNHCR. We wouldn't have this conversation if Beijing adhered to its obligations under the 1951 U.N. Refugee Convention and its 1967 protocol, not to mention its 1995 special agreement with the UNHCR. I'll refer to the Commission to my written text for details. What I'd like to do here is make two suggestions for consideration.

My first suggestion is to apply pressure on the UNHCR's Beijing office to do justice to its mandate. Pursuant to its 1995 agreement with China, the UNHCR should have unimpeded access to North Korean asylum seekers in China. But as we all know, North Koreans in China are off limits to the UNHCR. The refugee agency should assert its right to binding arbitration. This really should be done now, since several thousand North Korean detainees are in danger of imminent repatriation.

My second suggestion to the China Commission is to benchmark the international campaign that was launched against South Africa's apartheid system in the 1970s and the '80s. What did the U.N. General Assembly do to South Africa? In 1974, the Credentials Committee of the General Assembly denied South Africa its credentials and suspended all its activities in the United Nations. I say it's time to reexamine the U.N. credentials of North Korea too. If South Africa was bad enough to be suspended from all U.N. activities for 20 years, shouldn't the U.N. General Assembly be doing the same to North Korea until the nonproliferation and human rights goals are met?

I would think yes. But what has the U.N. done instead? It recently elected North Korea to the executive board of the WHO, and in June last year the U.N. permitted North Korea to assume presidency of the disarmament conference. This is absolutely laughable. If we don't take real action today, I assure you I could be invited back to a congressional hearing in 2033, and we will be echoing the same old rhetoric. That's 10 more years of human suffering in North Korea.

I'd like to conclude by commending the China Commission again for holding today's hearing. Your attention represents a beacon of hope for those North Koreans in China desperately yearning for freedom. And I thank you so much for that. Thank you.

Chair SMITH. Ambassador Lee, thank you so very much for your statement and your recommendations.

I'd like now to yield to Dr. Shin.

**STATEMENT OF ETHAN HEE-SEOK SHIN, LEGAL ANALYST,
TRANSITIONAL JUSTICE WORKING GROUP**

Mr. SHIN. Congressman Smith, Senator Merkley, and esteemed members of the Congressional-Executive Committee on China, thank you for inviting me to speak at today's hearing. Eleven years ago, as the members have mentioned, this Commission held a hearing on China's repatriation of North Korean refugees. It is with a very heavy heart that I note the continuation of China's unconscionable policy toward North Korean refugees today.

Last month, the U.N. Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern that China "is a country of destination for trafficking in women and girls from North Korea for purposes of sexual exploitation, forced marriage, and concubinage" and that "North Korean women and girls, defectors, are categorically classified as 'illegal migrants' and some are forcibly returned." CEDAW recommended that China protect North Korean victims of trafficking, to give the U.N. High Commissioner for Refugees, UNHCR, full and unimpeded access, and to allow their children to leave China with their mothers.

Beijing's longstanding policy of repatriation of North Korean refugees has resulted in their suffering of crimes against humanity in North Korea, as documented by the U.N. Commission of Inquiry in 2014. It is difficult to obtain accurate information about North Korean escapees in China because of Pyongyang and Beijing's deliberate policy of information blackout. While it is not impossible to pierce this fog of totalitarianism, various measures, accelerated and justified during the COVID pandemic, are making it ever more difficult to contact or assist North Korean refugees.

North Korea diverted scarce resources not only for WMD development, but also for building a security wall along the Chinese border, which is not unlike the Berlin Wall, to permanently imprison its own population. One might call it a Juche wall. On the Chinese side, the proliferation of CCTVs, coupled with AI-based facial recognition and surveillance of WeChat devices, first tested in Xinjiang and then expanded to China proper, has made North Korean refugees' internal movement difficult. The cost of moving within China has skyrocketed as a result, and even alternative escape routes to Mongolia have resulted in many arrests in Inner Mongolia (Southern Mongolia).

Since the early 2000s, Beijing's official position has been to handle North Koreans in accordance with its domestic law, international law, and humanitarian principles. However, China's policy fails to meet any of these three purported criteria. Article 32 of the PRC constitution provides that the PRC may grant asylum to foreigners who request it on political grounds. Moreover, Article 46 of the Exit and Entry Administration Law, which was enacted in

2012, states that foreigners applying for refugee status may, during the screening process, stay in China on the strength of temporary identity certificates issued by public security organs.

However, China has failed to institute a screening process for North Korean asylum seekers and to provide them with temporary identity certificates. China has similarly failed to extend national legal protection to ethnic refugees from Myanmar. If China cannot respect its own national law, one might ask how it can expect to be respected by the rest of the international community. China ratified the Refugee Convention in 1982, as you know, in response to the influx of Han Chinese and other ethnic minorities or refugees from Vietnam and Laos, and it has even allowed UNHCR to access asylum seekers from Pakistan, Iraq, Somalia, and Eritrea.

For the North Korean asylum seekers, however, China categorically rejects the individualized determination of their status, and denies UNHCR access. China also continues forcible repatriation of North Korean escapees, who should be protected by the principle of non-refoulement, not only under the Refugee Convention and its Protocol, but also under the Torture Convention, as was highlighted for the first time by the U.N. Human Rights Council's North Korean Human Rights Resolution this April.

China has even repatriated South Korean POWs who had escaped from North Korea, as in the case of Mr. Han Man-taek in 2005, contrary to China's legal obligations under the Geneva Convention. Beijing cites treaties with Pyongyang to justify its policy of deportations, but they cannot overrule human rights norms enshrined in the Universal Declaration and human rights treaties.

While Beijing uses the term "humanitarian principles" as meaningless diplomatic rhetoric, some Chinese people actually display humanitarian consideration for North Korean refugees. One North Korean escapee recounted that public security agents who apprehended her released her because they determined that their job was bringing criminals to justice, not arresting and deporting innocent women whose only crime was fleeing North Korea.

It is well known that pregnant North Korean women sent back to North Korea, and their babies, face abortion or infanticide to avoid "corruption" of Korean racial purity by Chinese blood. I cannot think of any country other than North Korea that carries out mass abortions or infanticides on such a racist ground. Nor can I think of any country other than China that would enable such mass abortions or infanticides against "its own blood."

China has even ignored UNHCR's proposal in 2004 to create a special humanitarian status for North Koreans. In recent years, certain localities in China have issued "resident permits" to North Korean women married to Chinese men. But they are primarily a means of control, to enable a systematic monitoring of North Korean women with limited freedom of movement locally. In short, the existence of North Korean women is tolerated only insofar as they serve as wives to sometimes abusive Chinese husbands and as mothers to their children, deprived of individual freedom or agency.

Given the dire human rights and humanitarian crisis that will unfold in the event of the resumption of forced repatriation, the international community must act now to pierce the fog of totalitarianism and hold Beijing accountable to its domestic law, inter-

national law, and humanitarian principles. The international community must call upon Beijing to release information concerning: 1. the number of North Korean detainees that are awaiting deportation to North Korea; 2. the number of North Koreans who have been issued “residence permits”; 3. the known number of children born between North Korean women and Chinese husbands; and 4. the procedure for applying for refugee status by North Koreans, if one exists.

China also needs to end the return of North Korean refugees, implement the process for individualized determination of status for North Korean asylum seekers, provide them with temporary documentation, and permit North Korean refugees and their children to resettle in third countries, such as South Korea. Concerned governments must make recommendations to China during its Universal Periodic Review at the Human Rights Council, which is scheduled for next January. The international community should also ensure that Chinese nationals responsible for North Korea’s crimes against humanity are documented by the U.N. accountability mechanism for North Korea.

Another option to consider is to expand the High Commissioner for Human Rights Office in Seoul, which currently only has a mandate over North Korea, into a regional office for Northeast Asia, including China, similar to the OHCHR regional office for Southeast Asia in Bangkok. The UNHCR also needs to speak up for North Korean refugees in China, as it had done up to 2013—instead of praising China’s Belt and Road Initiatives as “definitely” helpful with global refugee work.

Given his extensive experience handling the issue during his previous stint as the high commissioner for refugees, U.N. Secretary-General Antonio Guterres should lead diplomatic efforts with interested states to engage President Xi Jinping on this issue. In the summit statement in April, South Korea and the United States pledged to strengthen cooperation to promote human rights in the DPRK, as well as to resolve the issues of abductions, detainees, and unrepatriated prisoners of war, and condemn the DPRK’s blatant violation of human rights and the dignity of its own people in its decision to distribute its scarce resources to WMD development.

In the same vein, the two governments should issue bilateral and multilateral statements expressing concern about North Korean refugees, including at the U.N. General Assembly and Security Council. In addition to Magnitsky sanctions, given that North Korean refugees repatriated to North Korea provide slave labor that serves Chinese businesses in northeastern China, Congress can also consider strengthening existing sanctions legislation to require Chinese exporters from this area to provide proof that North Korean labor was not involved in their supply chains.

I would like to conclude by conveying a message to the Commission from Ms. Kim Jeong-ah, a courageous North Korean woman escapee who had to leave behind one daughter in North Korea and another in China when fleeing to South Korea. She told me to share with you the pain of continuing her human rights advocacy despite being diagnosed with liver cirrhosis after 14 years of forced separation with her daughter in China because of a Chinese man she was forced to marry through human trafficking. She says she

will continue to struggle because the heart-wrenching pain of North Korean women escapees like her is not an event from 14 years in the past, but an ongoing ordeal. So long as China persists with its policy of repatriation, this will continue.

Thank you and I look forward to your questions.

Chair SMITH. Thank you so very much. We will now turn to Ms. Hanna Song.

STATEMENT OF HANNA SONG, DIRECTOR OF INTERNATIONAL COOPERATION, DATABASE CENTER FOR NORTH KOREAN HUMAN RIGHTS

Ms. SONG. Mr. Chair, Mr. Co-chair, esteemed members of the Commission, thank you for holding this session today regarding the urgent and critical situation faced by North Korean refugees in China. Today on behalf of those who cannot be here physically today, I hope to shed light and be a voice for the thousands of silenced North Koreans who have sought refuge in China, only to face unimaginable hardship and persecution.

I want to begin by sharing the story of Ms. Kim, who my organization met just a few weeks ago, who entered South Korea in early 2023. She was trafficked into China at the young age of 18, after simply wandering into a train station in Chongjin, North Korea, looking for her mother who had gone missing. After entering a forced marriage to a man decades older than her, for over ten years she lived in constant hiding, evading authorities and struggling for survival. Tragically, an accident exposed her lack of identification, leading to her capture by the Chinese public security bureau, and subsequent repatriation to North Korea.

In North Korea, she endured unspeakable torture and punishment, was labeled a traitor to the state and sentenced to five years in prison. Upon her release in 2019 in North Korea, she bravely crossed the border again, this time determined to reach South Korea. However, her plans were thwarted by the onset of the COVID-19 pandemic, leaving her trapped in China for four long years, under increasing surveillance and constant fear of recapture, knowing very well what would happen if she were to return to North Korea a second time. In 2023, she finally found a broker who warned her of impending repatriations. Desperate to avoid her previous fate, she took a leap of faith, paying a steep price to secure her passage to South Korea.

Ms. Kim's journey embodies the resilience and courage of those who strive for freedom against all odds. However, sadly, her new beginning in South Korea is not the reality for the thousands of North Koreans who are currently detained in detention facilities in China. Time is of the essence, and we must act swiftly. In China, we believe there are over 10,000 North Koreans who are residing secretly without legal status or protection. They are refugees by the clear definition of the 1951 Refugee Convention. Their stories are filled with unimaginable suffering, and their quest for freedom is both courageous and urgent.

However, the fate that awaits them upon forced repatriation to North Korea is beyond comprehension. As was described by my fellow witnesses, arbitrary detention, torture, forced labor, and even execution are the grim realities that these North Koreans face. And

the fear they carry is not unfounded. It is supported by documented evidence and countless testimonies of those who have escaped the clutches of the oppressive North Korean regime.

Shockingly, the Chinese government still determines and labels these as illegal economic migrants, and forcibly repatriates them under a bilateral border protocol signed with North Korea. Our database at NKDB has recorded over 8,125 cases of forced repatriation, and over 32,000 cases of other human rights violations, such as torture, sexual violence, and executions associated with those who have been forcibly repatriated.

And unfortunately, the plight of the North Korean refugees is further exacerbated by the threat posed by China's surveillance technology. China's increased use of advanced surveillance tools, such as facial recognition and biometric systems, has become a repressive weapon targeting the most vulnerable, an issue that this very Commission has raised in the past. And we cannot forget that this includes North Korean refugees as well.

These technologies enable monitoring and trafficking of individuals in China, leaving no room for anonymity and invisibility, making it increasingly difficult for escapees to avoid repatriation. The living conditions of North Korean escapees in China during the implementation of China's zero-COVID policy have been dire. As Ambassador Robert King mentioned, before the COVID-19 pandemic, there were around 1,000 to 2,000 North Korean escapees who would reach South Korea every year. However, the combination of China's surveillance technology and North Korea's extreme border measures, including shoot-on-sight orders and their expanded fences, has caused a drastic decline. As was already mentioned, only 67 individuals successfully reached South Korea last year. Video cameras and facial recognition software have played a significant role in suppressing these numbers, making escape an almost insurmountable challenge for North Koreans.

NKDB has recently spoken to many who have revealed a distressing reality. Broker fees have skyrocketed. In the past, in the early 2000s to 2010s, broker fees were about US\$1,500. Just before the COVID-19 pandemic, \$15,000 per person to bring a person to freedom. Now, as of early 2023, close to \$40,000 needs to be paid to brokers to allow safe passage. However, over the past three years, broker fees have not only skyrocketed, but many brokers are scared to put themselves at risk.

We have heard of people offering \$75,000 to a broker and who were rejected because the broker himself faced security concerns. Even brokers face significant obstacles in supporting defections from North Korea through China, as China has embraced electronic payment systems tied to identification, making cash transactions nearly impossible. Meanwhile, the proliferation of facial recognition technology, QR codes, and China's many surveillance efforts has severely restricted the movement of North Koreans.

The decline in defections is not due to a diminished desire among North Koreans to escape this repressive regime. Rather, it reflects the mounting difficulties imposed by China's pervasive surveillance measures. Regrettably, this situation has allowed China to achieve its objective of effectively curbing successful defections, further cementing its control. As COVID-19 restrictions ease, we have wit-

nessed North Koreans in China attempting to defect to South Korea once again, seeking that freedom. Tragically, these attempts over the past few months have resulted in increased arrests.

NKDB, over the past few months, has received many accounts from North Korean escapees in South Korea, who have shared the distressing experiences of their family members who have been apprehended and detained in China while attempting to flee again. Chinese authorities who had been previously hesitant to actively arrest these individuals due to the repatriation challenges have now intensified their efforts once again to forcibly repatriate them to North Korea.

The closure of the Chinese/North Korean border due to the COVID-19 pandemic has resulted in a sharp increase in the number of North Korean refugees who have been detained awaiting repatriation. If the border were to reopen and forced repatriation resumed, a dire humanitarian crisis would unfold. Reports from survivors detail horrifying experiences of torture, beatings, electric shocks, and sexual violence. These acts are designed to instill fear and further subjugate these individuals.

However, without access to firsthand accounts from detainees or inside sources, it becomes increasingly challenging to see the complete scope of these circumstances within which North Korean refugees are being held. To gain insight into the situation, NKDB, my organization, has been closely monitoring the six established repatriation routes for any notable changes, particularly during this COVID-19 pandemic.

There are six known detention facilities that are run by the Public Security Border Defense Corps on the Chinese side of the border in the cities of Dandong, Tonghua, Changbai, Longjing, Tumen, and Helong, where North Koreans are detained before repatriation. Examination of satellite imagery provided by NK Pro, based in South Korea, based on information provided by NKDB, reveals significant developments at the facility, particularly in Helong, which we can see behind me today. Helong is known for repatriating North Korean refugees to Musan in North Hamgyong province.

What we can see here in these two images is one from 2019, before the pandemic, and the second one reveals construction after the COVID-19 pandemic. We can see new fencing and additional facilities surrounding a watchtower overlooking the border. Furthermore, at the height of the COVID-19 pandemic in the summer of 2021, new buildings were erected within the premises of the detention centers, as well as the renovation of the existing new building, which we can see by the change in the roof's tiles in the images behind me.

These observations raise compelling questions. Why did they need to build and expand these detention facilities in the first place? And who was mobilized to construct these facilities? The inability to directly answer essential questions about the detention facilities in China is deeply troubling. In the past, NKDB and other organizations have had access to North Korean escapees who have shared their harrowing experiences and bravely shed light on the human rights violations, as well as the facilities in China. However, the current lack of access hampers our ability to fully comprehend the conditions within these facilities.

This knowledge gap poses significant concerns. It allows for impunity, an increase in human rights violations, and a lack of accountability. When we cannot fully investigate and understand the operations and practices within these detention facilities, perpetrators of human rights violations are emboldened. The absence of external scrutiny enables violations to occur without consequences, perpetuating a climate of unchecked mistreatment, and further eroding the rights and dignity of individuals.

The lack of transparency and accountability undermines the principles of justice and human rights. Just across from the facility that we can see in these images lies Musan County, a border town housing one of North Korea's largest iron mines. When North Korea reopens its border with China, Beijing is expected to repatriate these North Korean escapees back to North Korea, where they will be forced to endure forced labor.

The eyes of the world at this moment are fixed on the highly anticipated opening of the North Korean/Chinese border. This not only impacts trade and economic exchanges, but also presents a unique opportunity to prevent North Koreans from, once again, being isolated from the rest of the world. North Korea, as we know, is the most isolated country in the world. And COVID-19 did more damage to the North Korean people than any sanctions could ever do.

However, amidst this anticipation, we must not overlook the fate of those currently detained at the border who anxiously await repatriation. These individuals have risked everything to escape an oppressive regime. They have found themselves in a precarious situation. The fear of being forcibly returned to North Korea, where they face severe punishment and persecution, weighs heavily on their hearts, as they've been detained for close to three years.

I want to echo the recommendations that my fellow witnesses have mentioned ahead of me. It is imperative that the United States Government and the international community take every possible measure to prevent the forced repatriation of North Korean refugees and provide them with the necessary protection. Robust diplomatic efforts are imperative to urge China to refrain from forcibly repatriating these vulnerable individuals. And we strongly recommend facilitating the safe passage of North Korean refugees to South Korea, to the U.S., and other third countries.

There have been instances in the past where North Korean refugees have been brought directly from China on commercial airlines through clandestine efforts by the South Korean government. This can be done again. We call upon China to grant the Red Cross access to detention facilities, as well as the UNHCR, who must be empowered to exercise their mandate. The lives of these individuals hang in the balance. They have endured unimaginable suffering and live in constant fear. As a global community, we bear the responsibility to protect and support those who have risked everything in their pursuit of freedom.

I thank the Commission again for bringing light to the issue. And I believe that we can create a future where no North Korean refugee is left behind. Thank you, again.

Chair SMITH. Ms. Song, thank you so very much for your testimony. Thank you for bringing that satellite imagery, which shows

a buildup, not a bulddown, towards more incarceration and abuse. So thank you for that, and all of your comments today.

I have a number of questions. I'll start off with a few, then yield to my colleagues. And then if we can, we'll have a second round to go into some further issues. You know, one thing that troubles me deeply, and from your testimony I know it troubles all of you, is this lack of action. Why the inaction? Is the United States doing enough? Is South Korea doing enough? And maybe, above all, is the United Nations doing enough, because it does have the responsibility? As you pointed out, Ambassador Lee, in your comments, the U.N. has failed to follow up.

Their 2014 U.N. Commission of Inquiry on Human Rights in the Democratic Republic of Korea identified the state's systematic and widespread crimes against humanity, including forced labor, forced abortion, infanticide, public execution, a massive gulag system, and overseas abductions. And you pointed out that the predicament of the North Korean escapees in China was also highlighted in that report, accusing China of aiding and abetting crimes against humanity. OK, it's all there. Good statement. We had hearings about it. We asked that it be implemented. And, as Ambassador Lee pointed out, the U.N. has failed to follow up.

Why this lack of concern? And, as a matter of fact, we seem to be going in the wrong direction at the U.N. As you pointed out, Ambassador Lee, when the North Korean government gets a slot on the WHO, on the executive committee, and serve as president last year of the Disarmament Conference—I mean, that is, like, the theater of the absurd to be doing that. You don't stand up to human rights abuse by enabling the abuser. You just don't do it. It doesn't work. It never has worked. And I think your comment about apartheid—and I was here in 1980, and '81, '82, and when we did sanctions against apartheid. And it was right that we did sanctions. And the U.N. was all-in on that. So I think your point, Ambassador Lee, about the U.N. credentials, is a very significant recommendation. And hopefully we can follow up on it.

But your point about the Beijing office of UNHCR not doing enough—it does start at the top. And I would hope that in Geneva and New York there would be a pivot—really this is an opportunity. This is all imminent. It's going to happen any day now, any week now. And this crisis could be averted if the U.N., I think, could be very robust. So why aren't we doing enough?

Let me just state parenthetically too, that in the past there was criticism leveled by Andrew Natsios, you remember, in 2014. He used to be the head of USAID and also ran a human rights organization dedicated to North Korea. And he made the point, Why did we separate human rights from the nuclear talks? You know, when they failed and burned out, yes, Ambassador King did yeoman's work. But he's one man. There should be a whole-of-government approach so that every time we talk to the North Koreans, human rights is there at the table as well, so that hopefully we get some amelioration of these abuses.

Without objection, all of your full statements—I know Dr. Shin, you had 16 pages—single-spaced. All of you spent a great deal of time putting together very, very good and excellent testimony—will be made a part of the record. You point out, the legal tools are

there for the UNHCR to do more for the North Korean defectors. Why aren't they doing it? And why aren't we doing more?

Ambassador KING.

We can always do more. And we should be doing more. One of the problems the United Nations encounters is that there are a lot of countries who have similar problems. One of the reasons why it was much easier to make progress on South Africa, is there were a number of African countries who had recently become members of the United Nations who were concerned about what was happening in South Africa. Unfortunately, we don't have that same numerical advantage in terms of dealing with North Korea.

One of the things that I think we need to be careful of is that this isn't going to be a quick thing. It's going to take time. We have made progress. We've created—there's a special rapporteur that the United Nations established, who reports to the U.N. Human Rights Council, reports to the General Assembly once a year, to both bodies. Issues are raised. The North Koreans are called on the carpet.

We're not moving troops to North Korea to solve the problem, but we are putting pressure on North Korea, and the thing that we need to keep in mind is that we've got to keep the pressure consistent. We've got to keep it up. We've got to continue. It isn't going to happen overnight but we make progress eventually.

The North Koreans, who have been reluctant to allow any U.N. officials to come to North Korea, actually allowed the Special Rapporteur on persons with disabilities to come to North Korea to see what they've done and the North Koreans, in the disability area, have made progress.

They haven't made the progress that they ought to make on human rights. But we can't give up. We've got to keep pushing, and I think the important thing here is that we've got to continue, keep it up, continue to press and continue to do, and eventually I'm hopeful that we'll be able to find some progress.

Chair SMITH. Ambassador Lee.

Ambassador LEE. Yes. I mean, it's such an important question that you raise, Chairman Smith. The problem with North Korea is that the world is not doing enough because the world does not know enough about what is going on in that country.

When it comes to, for example, famine in Africa or a refugee crisis in the Middle East, we have vivid visual pictures like documentaries, photos. Journalists are allowed to go in so we have pictures of little babies with their bellies bloated from hunger, dying in the arms of their mother.

So we have these pictures, but we don't have any of that when it comes to North Korea because North Korea is the most closed-off, cocooned society in the world, period. So it's very, very important that we continue to make progress and we continue to make efforts to get as much information as possible into that country and out of that country. And I'm really hoping that we'll have drones sophisticated enough, not just for military uses—you know, Hanna showed the satellite images, but I hope that eventually we'll have much clearer images of what is going on in these political prison camps.

That's one of the reasons—I mean, to answer your question as to why we aren't doing enough—it's probably because, in general, a lot of people just don't know what's going on. I mean, what is the image of a North Korean human rights violation that comes to your head? It's very difficult to capture an image.

So I think we have to make every effort to come up with something that the world can rally around, to have an iconic picture of what North Korean human rights is all about.

And also we have to name and shame. How many times have there been cases of—I mean, it's not just North Korean defectors in danger of being repatriated imminently once the borders open. It's been happening over three decades—and where was the UNHCR every time this has happened?

So we have to “call them out”—I mean, certainly China, but the UNHCR as well. We also have to put faces to the names—I think the NKDB does an excellent job—the organization that Hanna Song is involved with—of keeping track of all the North Korean defectors who found sanctuary in South Korea. But we have to put a human picture, a name to every individual who suffers and keep monitoring.

I know that the China Commission is about monitoring, so we have to keep monitoring each and every individual and keep track of what is happening to these people even when they get repatriated back to North Korea.

So there's a gargantuan task ahead, but we have to make these efforts so that their stories will be heard better in the world.

Chair SMITH. Thank you, Ambassador.

Dr. Shin.

Mr. SHIN. Thank you.

I agree with everything that Ambassador Lee and Ambassador King just said. I just want to add that I believe we lost this very critical momentum which was built up after the 2014 COI report under the previous administrations in both countries where these kinds of talks or diplomatic negotiations with Pyongyang basically excluded the human rights theme. It resulted in not only this loss of momentum but was also this big setback for the North Korean human rights movement.

For example, in South Korea's case we had a couple of North Korean defectors who came by sea who were sent back to North Korea in November of 2019. I believe that the current governments in both countries are more committed to the North Korean human rights issues but it will take some time to regain this kind of momentum not only at the national level but also, for example, at the U.N. Security Council where the public discussion of North Korean human rights issues has stopped since 2017.

And I also want to add that there are other countries, for example, Mongolia, Vietnam, and Laos, where the few North Korean escapees that have somehow made it from China—those countries are not necessarily friendly toward the refugees and, again, that's another area where the international community, perhaps, can redouble diplomatic efforts to make it a more safe place for those North Korean refugees.

Thank you.

Chair SMITH. Ms. Song.

Ms. SONG. Thank you for your question, Chairman.

I want to echo what Ambassador Lee said—the world doesn't do enough because it doesn't know enough. Governments, including the U.S., including Canada, the EU, they spend millions of dollars tracking naval ships to see if North Korea is evading sanctions. How much are they spending on monitoring human rights violations?

Many North Korean institutions are designated by the U.S. Government, the EU, and by the U.K. to be perpetrators of human rights violations. But are we doing enough in terms of monitoring North Korea's violations of human rights as we are for weapons development sanctions? I think that is where we can start. That is something we can begin to do even today.

And, secondly, in terms of why the UNHCR is not doing more, I think many think that just because of China and North Korea's unique diplomatic ties it's easy to not expect China to do more.

However, what we can see—Russia is an interesting example. Russia—as we all know at the moment—as we are all following, is responsible for some of the most serious war crimes and human rights violations this very modern day.

However, Russia allows UNHCR to have access to North Korean refugees who are in the country. There are many overseas laborers in Russia who have been dispatched by the North Korean government to make a profit for their own regime and many choose to escape. Many will leave their logging sites, their construction sites, and seek refuge and they seek refuge via the UNHCR.

As we mentioned earlier, about 67 escapees came to South Korea last year. The majority of these people were overseas laborers. The majority of them did not come directly from North Korea or from China but from Russia, the Middle East, and African states where they have been working as forced laborers and had access to U.N. agencies.

The U.N. is doing more in other countries. We cannot let them just use the excuse that China is a difficult country to work with. Russia is a difficult country to work with, yet they are doing more there. So that is an example that we can take and I hope this Commission can push forward on that as well.

Chair SMITH. Thank you.

Co-chair Merkley.

Co-chair MERKLEY. Thank you, and I wanted to start by recognizing that our testimony has established that over several decades we've had the same basic conditions, and, Ambassador King, you noted your efforts as a special envoy and how difficult it was to make progress.

In 2017, Senator Markey and I went to South Korea. We met with refugees, and asked the question, Why is China so resistant to facilitating the passage of refugees who come from North Korea on to South Korea or to other nations in the region?

The answer we received was this. China is absolutely committed to maintaining North Korea as a buffer against the West and they fear that if they have a humane refugee policy or refugee policy that follows international law, that basically North Korea will collapse because the whole elite world in North Korea wants to get out of North Korea, wants their children to get out of North Korea.

Is this the right explanation as to why China has been so resistant to honoring the Geneva Convention, honoring its own law? And if, in fact, that is an accurate assessment, how does that affect our strategy in terms of gaining ground on the issues we're talking about today?

Ambassador King.

Ambassador KING. Thank you very much for your question, for your comments, and for your interest and concern on this issue.

I think the Chinese definitely want to have a buffer. They're much more comfortable having North Korea immediately on their border than having a democratic open society like South Korea.

But I think there are other things as well. I think the Chinese are concerned about their own internal situation. That, again, is a regime that is very repressive. North Korea is worse, and it's hard to find one worse than China but North Korea is, and simply allowing the kinds of things that we seek in terms of allowing North Koreans to leave, to freely go, to be able to make decisions on their own fate is something they don't want to allow in their own country.

So yes, they want a buffer, but also they are concerned about the possibility of the example that that might show.

Co-chair MERKLEY. So it makes it even harder, another example.

So this brings me, Ambassador Lee, to your commentary about the power of the UNHCR and the value or the potential with binding arbitration. I had not heard before today's testimony about this UNHCR power. 'How powerful is this? Do we have a strategy in which we could really drive the UNHCR, given the difficulty of persuading China to otherwise honor the Geneva Convention?

Ambassador Lee, are you still with us?

Ambassador LEE. Yes. Thank you. Thank you for your question.

I'm not so sure if we can consider what's available to the UNHCR as a powerful tool. What I was saying is, in the case that the UNHCR is prevented from doing its job in China, it can resort to this binding arbitration, which means that if there's a conflict of interest between the Chinese government and the UNHCR in the work that the UNHCR is doing in China, within 45 days it can call for arbitration, and an arbitrator agreed upon by both sides will come in and try to resolve the issue.

But as far as I know—I don't think I'm wrong—that's never been the case and, you know, why is then UNHCR not being much more proactive or much more progressive in dealing with this issue? It's probably because the refugee agency is—you know, is concerned that if it really tried to take on the North Korean refugee issue that China might just kick them out and that is not completely out of the question, knowing what China does to any organizations or businesses that do things counter to the national interests of China.

Now, that might not work out but, you know, I'm just very disappointed that it's not actually using all the contractual legal tools on hand to deal with China simply because China doesn't want it to do so.

Can I just raise the point that you've made about the North Korean refugees and China being afraid of a mass exodus and that this could create instability even in China.

There is a case in 2017—I don't know if you're aware of this—but The Guardian reported in 2017 that China was secretly making plans to have a network of refugee camps along the 880-mile border with North Korea, you know, in case there were some sort of—that there might be a collapse.

Later on, of course, the Chinese foreign ministry denied this. But, you know, there was a leak by internal documentation and at that time it was a state-run telecom giant called China Mobile that revealed the plan, which was carried by the Guardian.

So China has been thinking about this for many years. So, it's not completely out of the question to hope that China might come along in setting up some sort of, even temporary settlement sanctuaries for the refugees from North Korea.

Co-chair MERKLEY. Thank you, Ambassador.

And you mentioned some other ideas about encouraging China to set up a corridor for refugees to Mongolia, Vietnam, Burma, Laos, or possibly granting amnesty to illegal aliens and then the refugee camps. It is really frustrating that we haven't found an effective way to push China.

And Dr. Shin—and I think I'll stop with this question—in terms of the Chinese government's own law to set up a screening process for those who assert their desire for asylum—that's required, as I understand it, by Chinese law. It's required by the refugee convention—as you think about the different tools we have and how little effect we've had so far—and I'll extend this question to both you and Ms. Song—what is the most effective way we can apply pressure?

Mr. SHIN. Thank you for the question, Senator.

It's obviously not easy to persuade the Chinese government on this issue because they view this from a very geopolitical point of view—that if they have this kind of change of policy it could lead to not only the collapse of the North Korean state but also their own regime as well.

But I think China at least is more amenable to this kind of international discourse and pressure than North Korea is, which is why we should utilize all available U.N. and other diplomatic mechanisms.

And I will say that, with respect to implementing the refugee processing procedure, I think it's important to basically tell China also that their take on this issue is somewhat driven by paranoia as well—that there is historical precedent back in 1989, when the collapse of East Germany basically happened—when Hungary, which was ruled by a communist but reformist government at the time, opened its borders with Austria and allowed hundreds of thousands of East Germans to exit to West Germany through this corridor.

And that's the kind of fear I understand that China has, which might have made more sense in the 1990s. But at present I think that many U.N. officials, too, consider that that kind of scenario is very unlikely even if China reconsiders and changes its policy with respect to North Korean refugees.

So both putting on this kind of diplomatic pressure and at the same time trying to persuade the Beijing government to view this

issue from a somewhat different—more realistic perspective, too, hopefully could lead to a more humane policy from Beijing.

And I think it's important also that we have a consistent message on this topic, that we don't—especially now that the Chinese and North Korean government may at any moment end the border restrictions—that this issue will not be something that we will just forget but something that the international community will continue to observe and monitor.

Thank you.

Co-chair MERKLEY. Thank you, Dr. Shin.

Ms. Song.

Ms. SONG. Thank you, Senator.

To echo what Ethan said in terms of diplomatic pressure, I would just like to add another layer of what we can do from the bottom up, not just governments but what China can do right now and what we have been able to see happening in recent news.

As we had heard from the statements before, many of the women who go to China are trafficked to men from northeastern provinces in China who have had difficulty in marrying anybody else in China, which is why they will traffic and bring women over from North Korea.

As a result there are many families where the mother or the wife is from North Korea and their husbands, when they know that their wives are in danger of being repatriated, will pressure their local government, local municipalities, local governments, to recognize this marital status and to recognize the children who are born to the North Korean mother and Chinese father.

Now, this does not mean these women are recognized as asylum seekers or recognized as refugees, but it's a start. They have limited—very limited, but they do have some type of identification, some type of rights to stay at least within China and that's where we can at least protect those who are in China at this very moment.

This doesn't, of course, address the issue of those who are detained at the border at this very moment. But what we can begin with is looking at ways in which we can engage with and persuade the Chinese government to provide protection measures to the many women who are in China because they are married to their own Chinese citizens and are mothers to their own Chinese youth as well.

Co-chair MERKLEY. So Ms. Song, I had heard a lot about women who tried to escape North Korea being married off to farmers. I hadn't heard about trafficking that involved some other form of pulling women out of North Korea for the purpose of marrying them.

Am I understanding from your description that that also takes place?

Ms. SONG. Often the farmers—not all men in these rural areas will be looking for a spouse—but often they know that their chances increase if it is somebody from North Korea because the prices are lower as well and so they will ask the broker to find them a wife and then the broker will often bring somebody from North Korea.

Co-chair MERKLEY. Thank you.

Chair SMITH. Commissioner Wild.

Representative WILD. Thank you so much, Mr. Chairman, Senator Merkley, for convening this important hearing.

The testimony has made it clear that this is a tragic and enormous problem, which doesn't in any way suggest that the U.S. and international organizations shouldn't be tackling it, but it certainly is a very difficult one to tackle and I appreciate the very succinct and specific recommendations that we've heard today.

Let me just start with you, Ms. Song. I'm curious about the fact that nearly three-quarters of the escapees from North Korea are women. Why—and, by the way, I had to step out briefly. I'm sorry if I missed the reason for that. But could you just enlighten me?

Ms. SONG. Representative Wild, there are two factors that we can consider as to why the majority of the escapees are women.

Firstly, it's an internal factor in North Korea wherein women have relatively more freedom of movement compared to the men. Despite the fact that the men are not compensated for their work, they are still expected to report to their factories, their workplace, every day.

On the other hand, women are given the work status of being a housewife and they use that to their advantage by being able to travel to different provinces and that is how North Korea, in fact, has been able to survive despite the Great Famine in the late 1990s and early 2000s. It was the women who went to the markets. It was the women who went to China, smuggled goods, and were able to keep the economy alive.

At the same time, it's also the women who are vulnerable to being trafficked to China because of the pull factor from China, as I mentioned to Senator Merkley before.

Representative WILD. Well, and I was going to get to that. I was just curious about why so many more women than men. Do these women generally travel in groups, or individually, when they are attempting to escape?

Ms. SONG. Mostly individually, because if they are caught as a group it is very clear that they are trying to escape the country. And if there is more evidence that they are trying to escape their country, then they are labeled a political criminal.

But if they are traveling as an individual they—before COVID, of course, they could bribe the state officials, convince them by saying, Oh, I was just going to China to do some trade. I was going to come back, and in that case it would be seen as an economic crime, which is seen to be less severe than political crime.

Representative WILD. And so the subject that you brought up of women being brokered, I guess, to marry farmers and other men in China, is that sometimes presented as an alternative to incarceration for them if they are caught as escapees?

Ms. SONG. There are a few cases in which the North Korean officials sell these women to Chinese men. It's often that they are middlemen from the Korean-Chinese ethnic group who are brokering them.

Representative WILD. I really meant on the Chinese end of things, is that something that's offered—offered is a bad word—as an alternative to being imprisoned or is that strictly something that happens on the black-market level?

Ms. SONG. I think they are separate issues.

Representative WILD. Okay.

Ms. SONG. But there are cases in which, if a North Korean woman is married to a Chinese man, he can use his network in China to be able to prevent his wife from being incarcerated and sent back to North Korea.

Representative WILD. Okay. Thank you very much.

And so to the group at large and particularly Mr. Shin, maybe you could lead on this—are there recommendations for the international community to formulate a gender-based approach to this huge problem?

Mr. SHIN. Thank you, Congresswoman.

That's, I think, definitely a relevant point and I just wanted to add to what Hanna said earlier that it's a sad fact of life for most North Koreans that the only way that they can escape from the country is through this kind of trafficking unless you're a very rich person in North Korea, and that also kind of accounts for why there are so many more women refugees than men refugees—very different from other refugee situations.

Representative WILD. And I'm sorry for interrupting. But if you happen to be a very wealthy person who wants to leave North Korea, do you still have to escape or are there semi-legal methods of doing so?

Mr. SHIN. You can win permits from the North Korean government through official channels but it's more likely that they will be using this under—well, black-market channels because the North Korean government keeps a very close tab on its citizens if they want to leave the country. They don't usually allow it for the typical reasons that we would consider legitimate.

Representative WILD. Thank you. Okay. Sorry for interrupting. Is there something you would recommend that could be gender based? And I'll ask the others if anybody has anything to offer on that after Mr. Shin.

Mr. SHIN. Sure. Just following up on the recommendation from CEDAW that these women should be recognized by the Chinese government in many cases as victims of trafficking and that they should be accorded protection under the Palermo Protocol, the treaty concerning human trafficking.

NGOs are somewhat cautious about this way we approach the issue as a simple, straightforward trafficking one because, ironically, the North Korean government and also the Chinese government have been very active in rounding up the human traffickers and their rationale is that these brokers are traffickers and—which is partly true, but they're not really as interested in protecting these trafficked women and girls as they are in using this as a legitimate tool to clamp down on the movement of people from North Korea to China.

So basically we would recommend that while China, or North Korea even, claims to enforce the trafficking law, you should take into consideration this kind of very gendered aspect of the refugee flow.

Representative WILD. And Ambassador King or Ambassador Lee, do either of you want to respond in any way as to whether there should be a gender-based approach to this?

Ambassador LEE. Yes. The numbers speak for themselves. It's well known that a very high percentage, over 80 percent of the refugees, are women. But I wouldn't stop at just taking a gender-based approach to the North Korean refugee crisis in China.

There's also a religion-based approach that should be taken, and a children-based approach, also. I think it has to be multifaceted. The children issue—there's a very well-known NGO activist in South Korea by the name of Tim Peters, who works on these children born of mixed marriage in China and the number is quite staggering. I mean, he quotes as many as 40,000 to 50,000 kids in China who just roam the streets and try to make a living in China. So, certainly gender, but also religion, and also children-based approaches are necessary.

And if I may take the opportunity to go back to one aspect—a question that was raised by Co-chair Merkley in terms of taking action, doing something about it.

When I became the human rights ambassador in 2013, one of the first things I did was to make a CD and write letters to almost 30 celebrities in Hollywood, trying to reach out to them to—you know, hoping that they would take on the North Korean human rights issue.

But, unfortunately, I did not get any response from any of them, and these were all very famous people that I wrote to, like Angelina Jolie and George Clooney, Oprah Winfrey.

I know that CECC is a very influential organization of the Congress. I think it really would be a huge help to get some of the celebrities or athletes on board to take on the North Korean human rights issue—the refugee issue in China.

We've had limited—I know Ambassador Bob King tried to do this. But if the Congress can get on board and really find some celebrities to take this issue on, I think it will be a huge event—a huge plus for the campaign.

Representative WILD. Thank you. That actually leads to another question that I have. But I would like to ask, if you don't mind, can you forward this Commission a copy of the letter that you sent to these celebrities so that we can review it and perhaps formulate our own letter and attach yours? Because I think that's very, very important.

It does lead to the question that I had about the overall international community's approach to this situation and whether it should be a high-profile approach or a behind-the-scenes approach. And I guess I don't really understand whether high-level pressure, celebrity pressure, and that kind of thing has any kind of impact on the president and other leaders in North Korea.

Can you just tell me that first? Or are they oblivious to high-level celebrity pressure?

Ambassador KING. North Korean leaders are oblivious to everything.

Representative WILD. Okay. Thank you, Ambassador King.

Ambassador KING. High-level celebrities, Clooney, Oprah—won't make any difference.

Representative WILD. It won't make a difference.

Ambassador KING. And that's largely because they're so isolated, insulated from any pressure from their own people or anyone else.

They do feel some pressure from the Chinese, to some extent from the Russians. They feel some pressure from the United Nations. But this is a regime that is so totalitarian that they are really—

Representative WILD. Although, as we have seen, they are responsive to flattery by certain—by a certain United States president and who seemed to revel in that, correct?

Ambassador KING. Yes. They revel in it, but it doesn't last very long.

Representative WILD. Okay. So I wanted to—I was intrigued by Ambassador Lee's recommendation about launching an international campaign similar to the one that was done with South Africa, and I'd be curious—perhaps, Ambassador Lee, you could answer this first—but I'd be curious to hear from any of you—what would a first step be to do something like what was done with South Africa?

Ambassador LEE. Yes. Well, I think we have to first understand the U.N. General Assembly procedures, because when that happened in 1974, of course, the president of the U.N. General Assembly took the initiative and then later on there was a vote at the General Assembly.

The thing is, this is not an expulsion. There is a specific article that deals with expulsions but, you know, that's more of a U.N. Charter case, and in such a case the Security Council has a say—which means that it's just not going to work because of China and Russia.

But in the case of 1974 South Africa, you know, it happened within the General Assembly. That's what gives me hope that it might be possible without the interference of the Security Council.

So I think we have to see who the members of the Credentials Committee are and make some diplomatic approaches to the president of the General Assembly and proceed as such.

Now, it may not work. But, you know, just the fact that these sorts of efforts are being made is huge pressure on the DPRK to get its act straight.

Now you were earlier wondering, you know, does it really matter? I think it does because when the COI report came out and particularly recommending that the North Korean perpetrators—the human rights issue be referred by the Security Council to the International Criminal Court—North Korea responded very, very sensitively.

So they don't like the international community finding out about all the human rights violations that are going on in North Korea. So if some of the very high-profile celebrities start talking about human rights abuses and situations in North Korea, I think it would matter.

Representative WILD. And who should the person or group of persons be who would approach the U.N. General Assembly, the credentials committee? Who would you recommend that be?

Ambassador LEE. I think it has to be done at the governmental level. So there has to be some coordination between the U.S. and South Korean governments. But, you know, I'm not speaking as a government official. It's just my personal idea. So please don't consider this in any way as a—

Representative WILD. No, I understand. I just find it to be an intriguing idea.

And Ambassador King, do you, with your many years of experience with North Korea, think that that is a reasonable approach? Is that a good approach? The reason I'm asking is because what I'm hearing is that, while they may be sensitive to criticism, since they don't really have any feedback or repercussions from their own citizens, it's very hard to penetrate a government like that and to effectuate any kind of change.

Do you have any thoughts on what a first step would be to—

Ambassador KING. You know, the North Koreans are sensitive to international pressure. When North Korea looks bad internationally they are concerned about that fact. That happened when the Commission of Inquiry report was published in the Human Rights Council in 2014.

The North Koreans were suddenly—the foreign minister, for example, who had not attended the New York September meetings where all of the high-level officials attend; for the first time in 14 years the North Korean foreign minister showed up. So there is an effect. One of the things that has been very positive in terms of putting pressure on North Korea is debating North Korea's human rights in the Security Council.

When the report came out from the Commission of Inquiry, the issue was taken up in the Security Council. At the time the United States worked cooperatively with other countries. The Security Council does not take action unless all five permanent members agree. But you can have a discussion as long as you have a majority of nine members of the Security Council calling for a discussion.

And so we had a program going of annual discussions of North Korea's human rights problems at the Security Council. This raised it to the level of—it's not just something we're dealing with in this organization that deals with human rights. It's something the Security Council is concerned about and talks about.

Representative WILD. And which countries does North Korea most worry about being influenced by this negative publicity about their human rights abuses? I mean, China, obviously, but who else?

Ambassador KING. China and Russia, but they're not going to object.

Representative WILD. Right.

Ambassador KING. They're not going to be a problem. But basically the good countries of the world. They want respect from—

Representative WILD. Okay. So is it a matter of respect mostly?

Ambassador KING. Part of it is respect. The North Koreans are sensitive about their stature. North Korea has some real questions about its legitimacy. There is a Korea and there's a sense that there's one Korea, and when you look at North Korea and it's being discussed in the Security Council and they're having votes against North Korea because of its human rights, it questions the legitimacy of the North Korean government and so there's value in continuing to do this.

This is one reason why the Security Council debate was important and why it was very unfortunate that the United States has stepped in two or three times to block that from happening.

We're back on track now. It's taking place. We need to continue this effort of questioning the credentials of the North Koreans, and that is the way to put pressure on them.

Representative WILD. I've gone way over my allotted time but let me just ask Mr. Shin and Ms. Song, do either of you want to add anything else to any of the prior discussion in response to my questions?

Mr. SHIN. Thank you, Congresswoman.

I think I definitely agree with everything that has been discussed thus far and I also want to add that—given the difficulty the Security Council has had in reaching any agreement about North Korea these days, perhaps the General Assembly is also an important forum, as was the case with Ukraine and other countries' situations.

And I just also want to add that, since we are at the CECC meeting here, China's responsibility—that's one aspect that has not been fully or adequately raised over the past few years.

It has been raised in the COI report, for example, but it hasn't—even the NGOs, quite frankly, have not really focused on the role that China has been playing and I think it's important to hold China accountable for what's happening in North Korea because at the end of the day, they are the enabler, and it's also important for the reason that Xi Jinping probably cares more about these kinds of international repercussions than Kim Jong-un would. So—

Representative WILD. So it's an indirect effect.

And Ms. Song, did you want to say anything?

Ms. SONG. Yes. The only other thing I would add to what has been already mentioned in terms of the launching of an international campaign is that we shouldn't just be thinking about what the North Korean leadership thinks of having an international campaign but what the North Korean people would react to.

One of the reasons why the North Korean human rights issue hasn't had as much attention despite the fact that it's been going on for 25, 30 years in which NGOs have been continuously coming to the Hill, going to the U.N., raising this issue is, unfortunately, even many North Korean escapees who live in South Korea and the U.S. are still afraid to speak out.

They're afraid of the repercussions that their family would face but also afraid that they will be shunned, locked away, and not given the recognition that they need. So having more North Korean voices at the table I think is crucial.

Having the recognition that many other vulnerable and minority groups have, being heard by the international community, is such a source of strength which I think would allow us to have more information and know more about this very isolated country.

Representative WILD. Thank you very much. That's a really important point. They certainly deserve to know of our support and our condemnation of the actions of China, which is most relevant, of course, to this Commission.

I thank you all for a really excellent presentation. With that, Mr. Chairman, I yield back.

Chair SMITH. Thank you very much, Ms. Wild.

Without objection we will have three written submissions—from Greg Scarlatiou, Suzanne Scholte, and Joanna Hosaniak. Without objection they will be made a part of the record.

And before I go to just a couple of final questions I especially want to thank—we have an amazing group of people who staff the China Commission, just an amazing group that are scholars, who do the due diligence, the hard work of knowing what is really going on and rejecting surface appeal argumentation—they go far beyond that. So I want to thank them for their help with not just this hearing but with all the work we do.

I especially want to thank Jungahn Kim, who's our special advisor, a fellow, who did yeoman's work on this hearing but also provides the Commission, with just tremendous insight, especially as it relates to Korea—North Korea and South—and China. I want to thank Piero Tozzi, who's our staff director, who just has done a tremendous amount of work, and he speaks fluent Chinese so, you know, when we get into discussions, particularly with interlocutors who would rather speak Chinese, there's Piero, and I sit there, and I have to get translation from both—on both sides. I want to thank Matt Squeri, who's Senator Merkley's top staffer on the Commission, for his tremendous work. And Scott Flipse, who has been with the Commission and does tremendous work. As I've pointed out before, some of the bills that have become law, including the Hong Kong Human Rights and Democracy Act, were his idea. So I want to thank you all, and I don't want to leave anybody out, but we do have a great Commission, group of staffers, and I'm just so grateful for the work that they do.

Just a brief question on the issue of the Security Council. We know that South Korea just won a seat as a nonpermanent member, 180 votes in their favor out of 192 potential. So it was an overwhelming show of support for South Korea.

And Hwang Joon-kook, the ambassador to the United Nations, made a very good statement. He did not mention, but I'm sure he will, the North Korea issue as it relates to the forced repatriation of people from China.

But this would seem to me to be a prime opportunity, working with the United States, I would hope, and other democracies—to ensure that there is robust discussion about these individuals—human rights in general, obviously, in North Korea but also to really focus on this imminent forced repatriation.

You know, delay is denial for them. If we delay and say someday something good might happen there, well, we have 2,000-plus more victims, some of whom may be executed, tortured, and all the other terrible things. So I think we need to be doing whatever we can to assist the South Koreans as they assume that very important position.

I also, you know—and perhaps you want to speak to that, our distinguished panel—but Assistant Secretary of State for East Asian and Pacific Affairs Kritenbrink recently went to China. We don't know exactly what was talked about. There were some critics, including myself, who wished that he would have, given the proximity of his visit to the Tiananmen Square massacre remembrance, mentioned something about that. And I think when you look to see what they've done in Hong Kong, they being Xi Jinping, they actu-

ally shut down not only the country but even any remembrance, which they claimed didn't happen, you know.

You go on their social media—and I've done it in internet cafés in Beijing—and type in Tiananmen Square, Tiananmen Square massacre, and you get a bunch of pretty pictures—no tanks, no bayonets—and they say nobody died.

When the Chinese defense minister Chi Haotian came here for a visit—he had been operational commander for the Tiananmen Square massacre—he was received at the White House by Bill Clinton with a 19-gun salute. He should have been sent to The Hague for crimes against humanity. He had the audacity to say nobody died at Tiananmen Square. Nobody.

He was asked a question at the Army War College—I put together a hearing in two days. We had people who were there who told the story about all the death and mayhem and violence committed by the People's Liberation Army.

So the hope is that that would have been raised. But we need to direct, I think, our comments and our focus on the administration here as well, including Secretary Blinken as well as Secretary Krienen, to really raise this issue now, this matter of urgency because once these people are returned, who knows—God knows what's going to happen to them in terms of the violence they will suffer. So there needs to be a sense of urgency, which, perhaps, you might want to amplify a bit on right now.

And, finally, I guess I'll just leave it at that and just ask if you can answer those or maybe speak about those two issues—the Security Council and trying to get our administration to do even more right now and to pivot.

Ambassador KING. One of the things that I'm encouraged about is that my successor has been nominated by the President, has actually had a hearing in the Senate. I'm sorry Senator Merkley isn't here. I'd like to see the Senate actually vote on that nomination so that she can take her place.

It is helpful to have a special envoy for North Korea human rights issues, and I think it's encouraging that we've got that, and I think that's an important step forward. I think it's very useful to have discussions like we've had today.

Thank you for having this session and being able to air these issues because I think that makes a big difference in terms of raising the level of consciousness here in the United States but also in North Korea thanks to Voice of America and Radio Free Asia, who are getting the word out on this. Thank you for doing that.

Chair SMITH. Ambassador Lee.

Ambassador LEE. Yes. President Yoon Suk-yeol is very much committed to improving the human rights situation in North Korea and also raising the issue on a global scale.

Ambassador Hwang Joon-kook, whom you've mentioned, who is South Korea's ambassador to the United Nations, is a very good friend of mine and he is also very stout on the human rights issue.

So it's fantastic news that South Korea has just joined the Security Council as its nonpermanent member—that's 1 out of 10 nonpermanent memberships—and I'm sure that we'll make every effort to get the North Korean human rights issue back on the agenda of the Security Council.

We have to remember that you have, like, over 10 Security Council resolutions and sanctions on North Korea but none of them—none of them are on North Korean human rights. They're all on North Korean missiles and nuclear tests.

So I think it's important that the Security Council—as we now take a nonpermanent membership—try to bring the human rights issue to the fore so that resolutions can be adopted on this issue as well.

Chair SMITH. Dr. Shin.

Mr. SHIN. Thank you.

So, yes, it's really encouraging that South Korea has recently been elected to the Security Council for the next two years and we, certainly, hope for the resumption of the public briefing and discussion of the North Korean human rights situation.

Now, it's probably not going to be easy, given the requirement for nine votes from supporting countries for this kind of procedural vote, but we hope that these kinds of diplomatic efforts will be redoubled. And I think it's also interesting that you mentioned the Tiananmen Square incident and other Hong Kong issues, and I think we noticed this kind of connection between the North Koreans and the refugees in China and also the other issues in China during the CEDAW discussions. So we hope that that kind of discourse might also take place at the U.N. level as well.

And I hope, as Ambassador King said, that Julie Turner's appointment as the special envoy will take place sooner rather than later. Thank you.

Ms. SONG. Thank you, Mr. Chair.

As you mentioned, it's very important that the issue of North Korean human rights is raised at the Security Council, and we hope that South Korea's seat at the table will make that more likely.

But, as you mentioned, I think it would be even more important to tie it to the Chinese issue. In the past, there have been discussions and advocacy efforts to just raise the issue of North Korean human rights at the Security Council. But having this transnational element I think would allow more international attention to be brought to the issue.

In terms of what the U.S. Government could do more of, last Human Rights Day Secretary of State Antony Blinken designated the North Korean border guards to be put on the U.S. sanctions list—the Magnitsky-style sanctions. Yet, the public security border defense corps on the Chinese side who are also very responsible, as we have seen and discussed today, they are not being held accountable for their involvement in the repatriation of North Koreans.

So we hope that we'll be able to see more of these designations and appointments of all who are involved in the human rights violations that are perpetrated against North Koreans.

Chair SMITH. If I could just give you the last word on this, Hanna Song.

You had mentioned in your discussion about satellite imagery that at least one Chinese detention center had been enlarged. I wonder what you think is necessitating that, and if you could speak to the issue of the wall that's apparently being built. The Guardian and Reuters have both reported on it. What does that signal in terms of relations between China and North Korea?

Ms. SONG. As I mentioned in my statement, unfortunately it's difficult to know exactly what the situation is without speaking to those who have either been detained there or have passed through. In the past when NKDB has gathered data on these six detention facilities, we either did field investigations in China itself or were able to speak to former officials who worked in the detention facilities or North Korean escapees who had been detained there once and were able to come safely to South Korea.

What we can only do at the moment is pose some questions. From our understanding from the many testimonies that we've gathered from North Korean escapees, they're not subjected to forced labor on the Chinese side. They're subjected to forced labor on the North Korean side because they're only detained in China for a few weeks, the longest a few months, before they are forcibly repatriated.

Now what we're facing is a different issue because some of them have been detained there for as long as three years. We don't have concrete evidence for this, but this is something that we can monitor: Is China now subjecting North Korean detainees to forced labor during their long detention within these detention facilities?

I think that is an area in which more investigations need to be done either by satellite imagery or, hopefully, we will be able to have more access on the ground. That is something that NKDB is looking at.

In terms of the fencing on the Chinese side, that, again, shows China's responsibility in preventing and restricting North Koreans' freedom of movement and how they should also be subject to accountability measures, and not just the DPRK government.

Chair SMITH. Thank you.

Would any of you like to make any final word? Your testimony has been outstanding.

If not, I thank you again for conveying to this Commission the wisdom and knowledge that you have certainly well honed, and this hearing is now adjourned.

[Whereupon, at 12:18 p.m., the hearing was concluded.]

A P P E N D I X

PREPARED STATEMENTS

PREPARED STATEMENT OF AMBASSADOR ROBERT R. KING

The flow of ethnic Koreans back and forth from what is now North Korea to adjacent border areas in Northeastern China is a centuries old phenomenon. As international boundaries are now configured, North Korea has a population of some 25 million people, essentially all of whom are ethnic Koreans. The adjacent areas of Northeastern China (the Chinese province of Jilin, and to a lesser extent the provinces of Heilongjiang and Liaoning) are primarily ethnic Han Chinese, but that area also includes a Korean minority population of some 2 million people.

Historically, there has been a considerable flow of ethnic Koreans back and forth between China and northern Korea. From the 1950s to the 1990s China was undergoing the chaos of the Cultural Revolution, while North Korea was relatively stable and more prosperous. There was a modest flow of ethnic Koreans from China to North Korea for employment during that time. After the breakup of the Soviet Union, assistance for North Korea was cut back, and North Korea went through serious economic difficulty, particularly in the 1990s with the North Korean famine. At that same time, post-Mao China was undertaking significant economic reforms, and the Chinese economy was flourishing. Over the last couple of decades, many North Koreans have gone to China seeking work.¹ Many have gone with the approval of the North Korean government, but others have gone without Pyongyang's sanction.

That economically driven population movement of ethnic Koreans is still going on in the border areas of China and Korea. During the time that I was Special Envoy from 2009–2017, I made a point of visiting ethnic Korean areas of Northeastern China to get a feel for what was happening in the border area. I found it very interesting that ethnic Koreans who were Chinese nationals were getting work permits for employment in South Korea. There were direct flights from the largest “Korean” city in China, Yanji in Jilin Province, to Seoul. That flight was packed with ethnic Koreans with Chinese nationality and passports, but who were working in South Korea.

I also saw some of this labor flow in the Chinese city of Dandong, which is located on the west side of the Yalu River, directly across from the North Korean city of Sinuiju. At the train station in Dandong rail passenger cars were loaded with travelers going to North Korea. I was there just before the Korean autumn harvest holiday of Chuseok, and more than a hundred North Korean young women were boarding the train to return to their homes in North Korea for the holiday. All were dressed in matching clothes. They were apparently working as seamstresses at a Chinese clothing factory, but they were clearly North Korean.

The point I want to make is that historically, culturally, and economically for centuries there are and have been extensive ties between ethnic Koreans who have lived in Northeastern China with Koreans living in the northern part of the Korean Peninsula. Those ties continue.

NORTH KOREAN ESCAPEES GO THROUGH CHINA

In addition to North Koreans who have found employment opportunities in China and are working abroad with the knowledge and approval of the North Korean government, there is a second group of North Koreans who seek employment in China without going through official North Korean government channels. There are also North Koreans who go without official approval to Northeast China in order to escape from the repressive North Korean regime and seek opportunities to live and work elsewhere. This third group of North Koreans seek to escape the repressive Pyongyang government, and the vast majority seek ultimately to resettle in South Korea.

For Koreans who want to leave North Korea, the easiest and safest route out of the North is through China.

- The 160-mile-long Demilitarized Zone (DMZ) boundary between North and South Korea is heavily fortified. Tens of thousands of troops guard both sides of the border. For North Korean citizens to get into the border zone many miles

¹See Hazel Smith, “Explaining North Korean Migration to China” including 11 translated Chinese documents on cross-border migration between China and North Korea, The Wilson Center Publication, online at <https://www.wilsoncenter.org/publication/explaining-north-korean-migration-to-china>.

from the actual border requires special documentation. Furthermore, getting through the heavily guarded DMZ is difficult. An estimated 2 million explosive land mines are located in the border zone.

- Exiting through the 10-mile-long Russian-North Korean border is also not easy. It is too small a boundary to be significant. It is in the remote northeast corner of North Korea, and Russian troops guard that border and immediately return escapees they capture to the North Korean government.
- Leaving by boat from the east or west coast of North Korea is difficult. Coastal areas are closely guarded, access to boats is difficult, and naval vessels patrol the sea boundaries.
- The 850-mile border with China includes river boundaries and some forested mountainous areas. While this is by far the most accessible escape route, it is illegal to leave North Korea, and it is also illegal to enter China without proper documentation.

North Koreans who reach Northeast China are able to find assistance, mostly from other Koreans, to help them cross Chinese territory from the Northeast corner of the country to the Southwest border. They are able surreptitiously to cross into more hospitable countries, including Laos, Thailand, and others. From there they are able to find help eventually to reach South Korea, the United States or European countries. Traveling through more densely populated parts of China makes it easier to blend in with crowds and avoid detection. Escape is difficult and dangerous, but there has been some success in getting out of North Korea and China.

THE DISRUPTIVE IMPACT OF COVID

The COVID pandemic, however, has changed conditions and made it much more difficult for North Koreans to escape the North. In dealing with the pandemic, countries around the world have limited travel, tightened restrictions on movement, and increased border controls. The North Korean government has significantly tightened its already strictly guarded borders to prevent the return of potentially infected individuals to North Korea. Although tighter border controls due to COVID are focused on North Koreans returning illegally from China and elsewhere, the tighter border controls and the increased presence of North Korean police in border areas have also made it far more difficult for escapees to leave the North.

China has likewise tightened its borders because of COVID, and this has made it more difficult than in the past to get into China. Furthermore, to prevent internal COVID spread, the Chinese government has also made travel inside the country even more difficult and restricted than in the past. Getting from the North Korean border to the southwest of China has become even more difficult now than it was before.

Statistics show the precipitous decline in the numbers of escapees arriving from North Korea who are able to reach South Korea.² The total number of escapees arriving in South Korea since counting began in the year 2000 has been about 34,000 North Koreans.

- 2011: Highest one-year total was 2,706 escapees
- 2012–2016: annual average number of escapees—1,500
- 2017–2019: annual average number of escapees—1,100

The first COVID case was diagnosed in China in November 2019. Since that time, the number of North Koreans reaching South Korea has plummeted:

- 2020: 229 individuals
- 2021: 63
- 2022: 67
- 2023: (partial year—1st quarter) 34

North Korean escapees going to South Korea are significantly more numerous than those going to other countries. By legislation the United States has sought to make clear our willingness to welcome North Korean escapees to our country. The numbers who have come, however, have been modest. The largest number admitted in one year to the United States was 12—admitted in 2017 and 2021. North Korean refugees admitted to the U.S. number around 200 over the last two decades.³

²Figures from Republic of Korea, Ministry of Unification, “Policy on North Korean Defectors,” https://www.unikorea.go.kr/eng_unikorea/relations/statistics/defectors/.

³Robert R. King, “Number of North Korean Defectors Drops to Lowest Level in Two Decades,” <https://www.csis.org/analysis/number-north-korean-defectors-drops-lowest-level-two-decades>

About a thousand North Koreans have been admitted to European countries in the last two decades, with the largest number going to the United Kingdom, which has admitted somewhat over 600.⁴

CHINESE TREATMENT OF NORTH KOREAN ESCAPEES

Chinese government agencies carefully guard entrance to and exit from China. North Koreans who enter China illegally are apprehended and imprisoned in China. They are not permitted to leave China, and they are handed over to the government of North Korea.⁵ But because of COVID restrictions, the North Korean government has apparently only accepted a small number of its citizens who have been apprehended by Chinese authorities since 2020 when the COVID outbreak began. The Chinese have unsuccessfully sought to return these North Korean citizens.

In March of this year, Elizabeth Salmon, the UN Special Rapporteur on human rights in North Korea, told the UN Human Rights Council in Geneva: “Due to border closures, over a thousand North Korean escapees have been detained in China indefinitely,” and she added that forcibly repatriated individuals are at severe risk of being sent to North Korean political prison camps if they are returned to the North.⁶

Since the beginning of the COVID pandemic, however, the North Korean government has refused to accept its own citizens back when the Chinese government seeks to return them. The Chinese government appears to be detaining North Korean citizens who are found in China illegally. In July 2021, Human Rights Watch suggested that some 50 refugees were repatriated to North Korea by Chinese officials.⁷ This appears to be a single instance and not the beginning of a return of all escapees who were apprehended in China.

In the various reports on North Korean escapees being detained in China, there has been no effort to distinguish between North Koreans seeking to leave the North and find refuge in South Korea or elsewhere and North Koreans who were seeking economic opportunities in China.

As the U.S. Special Envoy for North Korean Human Rights, I met with Chinese diplomats at the United Nations in New York and others at the UN Human Rights Council in Geneva. I also made official visits to China on several occasions where I met with officials of the Chinese Foreign Ministry and the Chinese Communist Party’s International Liaison Department to raise United States concerns regarding North Korean refugees. The Chinese officials were polite, but they showed no concern for the humanitarian impact of Chinese treatment of North Korea escapees.

The Chinese government would not discuss North Korean escapees with United Nations officials who were resident in China or who were traveling to Beijing from Geneva. UN officials were able to deal with Chinese government officials regarding refugees from South Asia and Southeast Asia, but Chinese government officials refused to discuss North Korean refugees with UN officials.

Mr. Chairman, I very much appreciate the Congressional-Executive Commission’s interest and attention to the treatment of North Korean refugees by Chinese officials and the humanitarian tragedy that China’s policy is creating.

PREPARED STATEMENT OF JUNG-HOON LEE

When the 2012 UNGA resolution (A/RES/66/290) stressed the “right of people to live in freedom and dignity, free from poverty and despair,”¹ it appeared the UN was determined to reach out to the most vulnerable in all corners of the world. When it comes to North Koreans, this commitment has proven to be more rhetorical than substantive. In North Korea, the people’s fundamental rights, including “freedom from fear and want,” are systematically trampled. Those who manage to escape

⁴Eve Watling, “Inside London’s community of North Korean defectors,” *Independent*, February 13, 2020, online at <https://www.independent.co.uk/arts-entertainment/photography/north-korea-defectors-london-traces-left-behind-catherine-hyland-new-malden-a9333311.html>

⁵Roberta Cohen, “China’s Forced Repatriation of North Korean Refugees Incurs United Nations Censure,” Brookings, 7 July 2014, online at <https://www.brookings.edu/opinions/chinas-forced-repatriation-of-north-korean-refugees-incurs-united-nations-censure/>.

⁶“Report of the Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea, Elizabeth Salmón,” United Nations Human Rights: Office of the High Commissioner, Document A/HRC/52/65.

⁷“China Restarts Forced Return of Refugees to North Korea,” Human Rights Watch, July 22, 2021, online at <https://www.hrw.org/news/2021/07/22/china-restarts-forced-returns-refugees-north-korea>.

¹United Nations General Assembly, *Transforming Our World: The 2030 Agenda for Sustainable Development*, A/RES/70/1, Resolution adopted by the United Nations General Assembly (September 25, 2015).

to China in search of a better life do not fare much better. China's discriminatory policy leaves North Korean refugees with two choices: forcible repatriation or inhumane treatment in hiding. The plight of the North Korean refugees in China stands out as one of the most troubling challenges to the UNHCR.

NORTH KOREAN REFUGEES IN CHINA: AN OVERVIEW

In the 1990s, facing severe political persecution and starvation, North Koreans fled the country *en masse* to take refuge in China. Up to 200,000 North Koreans crossed the border in search of a better livelihood. The fortunate few made it out of China to countries like Laos, Thailand, and Myanmar before finding safety in South Korea or other countries willing to take them in as asylum-seekers. This pattern of exodus has continued for nearly three decades. Today, there are 34,000 defectors living in South Korea. Having peaked in 2009 at 2,914, the number has significantly dwindled since 2020 due to COVID-19 border shutdown, stringent crackdown by both Chinese and North Korean authorities, and the Moon Jae-in government's aversion to addressing the defector issue in favor of placating Beijing and Pyongyang.

When caught, the asylum seekers are forcibly repatriated since Beijing considers them "illegal economic migrants," not refugees. Those who are returned to North Korea often join 120,000 others in gulags (political prison camps). Their lives filled with fear, hunger, and persecution are well chronicled by some of the escapees from these camps.

Although the North Korean defectors are recognized as refugees by the UN, the Chinese government prevents them from receiving international protection and assistance. Without institutional support, North Korean refugees struggle not only to find food and livelihood but also to avoid capture and repatriation. In the event of repatriation, the punishment ranges from torture, incarceration, starvation, and even death. The North Korean refugee situation is particularly urgent because while the problem continues unabated, international concern over the longstanding crisis has weakened due to attention being channeled towards North Korea's nuclear and missile threats. Although the denuclearization goal remains a compelling responsibility for the global community, such goal should not hamper efforts to address North Korea's other problem—"crimes against humanity."

THE COI FINDING AND RECOMMENDATION

In February 2014 the UN Commission of Inquiry (COI) on Human Rights in the Democratic People's Republic of Korea (DPRK) identified the state's systematic and widespread "crimes against humanity," including forced labor, forced abortions, infanticide, public executions, a massive gulag system, and overseas abductions.² The predicament of the North Korean escapees in China was also highlighted, accusing China of "aiding and abetting" crimes against humanity. By forcibly repatriating North Koreans, China was found to be in violation of the *non refoulement* principle. China continues to violate this international human rights law which supposedly guarantees that "no one should be returned to a country where they would face torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm."³

Of course the fundamental problem with the North Korean refugees begins in their country of origin—North Korea. But China's position on interpreting their status as "illegal economic migrants" certainly compounds the problem.⁴ The Office of the UN High Commissioner for Refugees (UNHCR) in China has not helped the situation simply by remaining silent despite not having access to these "migrants."

The legal tools are there for the UNHCR to do more for the North Korean defectors. The UNHCR concluded a bilateral agreement with China in 1995 that granted the UNHCR's staff in China unimpeded access to refugees within China. Determining who is a refugee requires interviewing the prospective asylum-seekers. With China strictly preventing UNHCR access to North Koreans near the border, the process towards refugee recognition has been completely thwarted. The forcible repatriation of North Koreans seeking refuge in China is a blatant breach of Beijing's

² UN Human Rights Council, *Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People's Republic of Korea* (A/HRC/25/CRP.1) (February 2014).

³ OHCHR, <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>

⁴ Human Rights Watch, "China: Redoubling Crackdowns on Fleeing North Koreans." (September 3, 2017). <https://www.hrw.org/news/2017/09/03/china-redoubling-crackdowns-fleeing-north-koreans>

obligations under the 1951 UN Convention Related to the Status of Refugees and its 1967 Protocol.

The 1951 Convention defines a refugee as “a person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of their nationality, and is unable to or, owing to such fear, is unwilling to rely on the protection of that country, or to return there, for fear of persecution.”⁵ That’s North Koreans in China. The fact that North Korean refugees face detention, prison terms, torture, or in extreme cases, execution when repatriated back to North Korea is sufficient to classify them as “asylum-seekers” or refugees.

THE CAUSAL LINK BETWEEN SONGBUN SYSTEM AND REFUGEE STATUS

It is true that famine-related economic migrants cannot be classified as refugees in the traditional international legal sense. But the case of North Koreans is different; the main reason for their defection to a foreign country—economic plight—is the political outcome of a failed socialist system under totalitarian rule.

The connection between political power and economic deprivation of a large percentage of the North Korean population can be traced to the state-sponsored discrimination policy known as songbun. North Korea is a society steeped in social stratification based on each individual’s political-ideological background as determined by the Workers’ Party of Korea (WPK). All North Korean citizens are classified into either the basic class (Kibon-gyech’ung), wavering class (Pokjab-gyech’ung), or hostile class (Chokdae-gyech’ung). Songbun is the source of systemic discrimination based on the evaluation of a person’s religious, political, and family background spanning three generations, as well as his or her current behavior and perceived loyalty to the state. This system underpins the state’s socio-economic exclusion policies responsible for an inter-generational discriminatory scheme that determines who receives what kind of food, healthcare, education, job, and even residence.⁶ The songbun class system is strictly enforced by North Korea’s secret police, the Ministry for Protection of the State (Kukga Bowisong), which target the perceived “enemies of the state” in the lowest songbun class. Those targeted are not only deprived of socio-economic opportunities, but often persecuted in the vast network of North Korea’s detention centers, including political prison camps.

It is not surprising that most of the victims of the widespread famine in the 1990s were those of the low songbun class, as they were the first to be cut from the government’s public distribution system (baegupjedo). The famine led to the exodus of tens of thousands of North Koreans, primarily residents of the northernmost areas bordering China—North Hamkyong Province in particular. These areas were, and still are, largely mining areas, where many people had been sent as a form of punishment for their poor songbun background. With international humanitarian agencies prevented from reaching out to these people, many of them escaped to China as the only means to ensure their survival.

The right to food is one of the most fundamental human rights ensured under the existing international laws. Denial of food, especially as a weapon of persecution, can therefore substantiate a claim to refugee status by those denied. The songbun system thus causes repeated attempts to defect, further aggravating the cycle of deprivation and persecution. Cognizant of this systemic problem, the COI found that there was enough evidence to recognize many North Koreans as refugees fleeing persecution or refugees sur place, entitled to international protection.⁷ Women, who constitute 70–80% of repatriated refugees, are particularly hard-hit as they are subjected to trafficking while in China, and to forced abortion, infanticide, and sexual abuse upon return.⁸

The principle of non-refoulement guarantees that no one should be returned to a country where they would face “torture, cruel, inhuman or degrading treatment or punishment and other irreparable harm irrespective of their migration status.” This

⁵Atle Grahl-Madsen, “Refugees, UN High Commissioner.” In Rudolf Bernhardt (ed.), *Encyclopedia of Public International Law*, Vol. 5 (Amsterdam, 1985), 257.

⁶For a discussion on songbun as a tool of the state, see Greg Scarlatoiu, “Human Security in North Korea,” *International Journal of Korean Studies*, Vol. 14, No. 2 (Fall 2015), pp. 128–31.

⁷UN Human Rights Council, *Report of the Detailed Findings of the Commission of Inquiry on Human Rights in the Democratic People’s Republic of Korea (A/HRC/25/CRP.1)* (February 2014), p. 130.

⁸Daye Gang and Joanna Hosaniak, *They Only Claim That Things Have Changed: Discrimination against Women in the Democratic People’s Republic of Korea*, NKHR Briefing Report No. 8 (Life & Human Rights Books, Citizens Alliance for North Korean Human Rights, 2018), pp. 38–46.

measure is explicitly stipulated in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), and other international human rights, refugee, humanitarian and customary law.⁹

WHERE'S UNHCR?

The UNHCR's lack of access to North Korean refugees is generally viewed as the main reason for its ineffectiveness. But in actuality, the 1995 agreement between the UNHCR and China gives the UNHCR unimpeded access to all refugees within China. Why, then, has the UNHCR not done more to help the North Korean refugees? The UNHCR Beijing Office is, after all, responsible for determining refugee status in China, as well as for providing life-sustaining assistance such as accommodation, living allowances and access to basic health care. The fact that China permits the presence of the UNHCR office in Beijing suggests at least a minimum level of professional partnership. In fact, China and the UNHCR have enjoyed a cooperative relationship, for example, in working together in the 1980s to support the Vietnamese refugees in China. The UNHCR has also provided training for Chinese government officials and held joint symposiums to address refugee protection issues. Thus, the lack of cooperation on North Korean refugees appears to be more an exception than the rule.

This raises the question why the UNHCR has not been more aggressive in obtaining access to interview the escapees. It is also puzzling that the UNHCR has never opted to invoke binding arbitration regarding China's refusal to allow access to North Korean defectors. Binding arbitration in the event of a bilateral dispute is permissible as stipulated in the 1995 UNHCR-China agreement. In such a case, China is obligated to accept an arbitrator acceptable to both parties within a 45-day period.

Clearly, the UNHCR has failed to do its job on the North Korean refugee issue. At the very least, the UNHCR should have been more vocal in condemning Beijing's refusal to provide legal protection for female refugees from being trafficked within China. China, after all, is obligated under the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in December 1979, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted by the General Assembly in November 2000, to take measures to safeguard against the trafficking of women and children inside its own borders.

SHORT-TERM SUGGESTIONS

- Despite its shortcomings, the UNHCR remains the best instrument available to deal with the North Korean refugee issue. But its presence in China will be ineffective until it begins to assert its right to "binding arbitration" with China. UNHCR should be pressed to do this, especially regarding the current detainees in danger of imminent repatriation against their will.
- UNHCR could also convince Beijing to open an official corridor—"underground railroad"—through which North Korean refugees could pass, escorted by UNHCR officials on their way to Mongolia, Vietnam, Myanmar, or Laos.
- Beijing can be persuaded to periodically allow amnesty for "illegal aliens," a conduct more becoming of a P5 and an aspiring global leader.
- A semblance of a refugee camp or a temporary settlement for the escapees to provide a much-needed shield from human rights violations would mean a major breakthrough. Considering many refugee camps are erected impromptu, establishing one specifically for North Korean refugees should not be complicated in practical terms. It's just a matter of political will.

ACCOUNTABILITY REQUIRES STRONG POLITICAL WILL

- Reinforce the existing international sanctions by addressing loopholes.

⁹UN Office of the High Commissioner for Refugees, "The principle of non-refoulement under international human rights law." <https://www.ohchr.org/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>

- Benchmark international campaign against South Africa's apartheid system.
- UNGA Credentials Committee should be prodded to re-examine the credentials of the DPRK pursuant to its Rule 29. Question is: If South Africa was bad enough to be suspended from all UN activities for twenty years, shouldn't the UNGA consider doing at least the same to North Korea until the nonproliferation and human rights goals are met?
- What has the UN done instead? It recently elected North Korea to the executive board of the World Health Organization and in June 2022 permitted North Korea to assume presidency of the Conference on Disarmament. Such display of weakness in not dealing with countries like North Korea will only lead to the perpetuation of the human suffering in that country.

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Congressional-Executive Commission on China

Hearing
on

North Korean Refugees and the Imminent Danger of Forced Repatriation from China

2360 Rayburn House Office Building

Tuesday, June 13, 2023 - 10:00am ET

<https://www.youtube.com/watch?v=yb5a5ahftT4>

Statement of Ethan Hee-Seok Shin

Legal Analyst

Transitional Justice Working Group (TJWG)

China's complicity in the crimes against humanity committed in and by North Korea:

The need for international action to pierce the fog of totalitarianism and
to hold Beijing accountable to its domestic law, international law and humanitarian principles

I. Introduction

On May 30, 2023, the UN Committee on the Elimination of Discrimination against Women (CEDAW) released its concluding observations for China's periodic report where the Committee expressed its concern that China "is a country of destination for trafficking in women and girls from North Korea for purposes of sexual exploitation, forced marriage or concubinage"; that "North Korean women and girls defectors are categorically classified as "illegal migrants" and some are forcibly returned"; and that "children born in the State party to North Korean women are deprived of their rights to birth registration, nationality, education and health care because their birth cannot be registered without exposing the mother to the risk of deportation to North Korea".¹

The Committee went on to recommend China to: "(a) Ensure that North Korean women and girls victims of trafficking are not criminalized for violations of immigration laws and have access to temporary residence permits and to basic services, including medical treatment, psychosocial counselling, education, alternative income-generating opportunities and

¹ Concluding observations on the ninth periodic report of China (30 May 2023), CEDAW/C/CHN/CO/9, para. 29.
<https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FCHN%2FCO%2F9&Lang=en>

rehabilitation programmes; (b) Provide the Office of the United Nations High Commissioner for Refugees, and relevant humanitarian organizations, full and unimpeded access to victims of trafficking from North Korea; (c) Regularize the status of North Korean and other women victims of trafficking who marry (voluntarily) or (by forced marriage or are in an unregistered union and) have a child with a Chinese citizen, and ensure that their children obtain birth registration, are eligible for Chinese nationality and have access to education and health care without discrimination (and would be allowed to leave China together with their North Korean mother/defector)".²

The extensive reference to trafficking and other grave human rights violations against North Korean refugees in China by a UN human rights treaty body was the culmination of a joint effort by human rights NGOs and activists, including Ms Kim Jeong-ah of the Rights for Female North Korean Defectors (RFNK), herself a North Korean escapee in South Korea who had to leave behind two daughters, one in North Korea and another in China.³ It was also a timely intervention by a committee of independent experts to hold China accountable for its treatment of the North Korean refugees who face the imminent danger of forcible repatriation if and when North Korea lifts its COVID-19 imposed border closure policy.

China's complicity in the crimes against humanity committed in and by North Korea has already been thoroughly documented in the groundbreaking fact-finding report by the UN Commission of Inquiry (COI) in 2014. The Chinese government's longstanding policy of forcible repatriation of thousands of North Korean refugees has resulted in their torture, sexual and gender-based violence, forced abortion, infanticides and disappearance in gulags and executions that amount to crimes against humanity.

It is a cruel twist of history that the deadliest pandemic to strike humanity in this century has succeeded in halting the deportation of North Korean refugees since January 2020. This ironic respite is expected to come to an end as North Korea finally lifts its border closure.

² Id., para. 30.

³ Citizens' Alliance for North Korean Human Rights (NKHR), Transitional Justice Working Group (TJWG) and Improving North Korean Human Rights Center (INKHR), 12 Apr 2023, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FCSS%2FCHN%2F52277&Lang=en>; International Federation for Human Rights (FIDH) & Database Center for North Korean Human Rights (NKDB), 11 Apr 2023, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FCSS%2FCHN%2F52257&Lang=en>; People for a Successful COrean REunification (PSCORE), 11 Apr 2023, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FCSS%2FCHN%2F52221&Lang=en>; Rights for Female North Korean Defectors (RFNK), 11 Apr 2023, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCEDAW%2FCSS%2FCHN%2F52270&Lang=en>

II. The fog of totalitarianism

It is difficult to obtain accurate information about the situation of North Korean escapees in China because of the deliberate policy of information blackout enforced by Beijing along with Pyongyang. As the past experience demonstrates, it is possible to pierce this fog of totalitarianism, but China's coming technological dystopia, first tested in Xinjiang and then expanded to cover China proper, designed mainly to perfect internal control, is making it ever more difficult to contact or assist the North Korean refugees.

In December 1998, the Citizens' Alliance for North Korean Human Rights (NKHR), the oldest NGO dedicated to North Korean human rights founded in 1996, reported upon the first known incident of mass round-up and deportation of about 150 North Koreans by the Chinese authorities in Tonghua, Jilin province and appealed to Chinese President Jiang Zemin and the UN High Commissioner of Refugees (UNHCR) to treat North Korean escapees as refugees under international law.⁴ The U.S. Committee for Refugees World Refugee Survey 2004 noted that: "Non-governmental organizations estimate that China forcibly deports between 150-200 Northern Koreans per week amounting to an estimated 7,800 forced deportations during 2003."⁵

The international concerns raised by China's high-profile deportation of North Korean refugees prompted the Congressional-Executive Commission on China (CECC) to hold a hearing about the topic 11 years ago in March 2012.⁶

However, in the more recent years, the various measures accelerated and justified in the name of combating COVID-19, including the utilization of high-tech surveillance technology long preceding the pandemic, by China and North Korea have taken the totalitarian control to a whole new level.

During the pandemic, North Korea has diverted its scarce resources not only for WMD development but also for building a border wall which made unauthorized border crossing

⁴ Kim Tae-sik, "Chinese Public Security Authorities Round Up 150 North Korean Escapees and Transfer Them to North Korea [중공안당국 탈북자 1 백 50 명 검거,북압송]", Yonhap News 1998.12.21., <<https://n.news.naver.com/mnews/article/001/0004346357?sid=103>>

⁵ U.S. Committee for Refugees World Refugee Survey 2004 – China (25 May 2004), <<https://www.refworld.org/docid/40b459368.html>>

⁶ Congressional-Executive Commission on China, "China's Repatriation of North Korean Refugees" (2118 Rayburn House Office Building Washington, DC 20515 | Monday, March 5, 2012 - 2:30pm to 4:30pm), <<https://www.cecc.gov/events/hearings/chinas-repatriation-of-north-korean-refugees>>

extremely difficult for North Koreans in most areas. Human Rights Watch (HRW) released its findings based on satellite imagery last November⁷; Reuters and the Middlebury Institute last month released the analysis of satellite images of the North Korean border that revealed North Korea's construction of border walls during the pandemic period.⁸

Not unlike the Berlin Wall, created in 1961 by East Germany to stem the flight of its citizens to West Berlin, this new border wall may be called a "Juche wall" or "Juche curtain" designed to make the Chinese border almost impassable for the North Korean people trying to flee their country.

The situation is not better on the Chinese side. According to the Citizens' Alliance for North Korean Human Rights (NKHR), which has been rescuing North Korean escapees in China and elsewhere since the mid-1990s, the recent identification cards that are difficult to forge and widespread installation of closed-circuit television (CCTV) have significantly increased the risk of exposure for North Korean refugees attempting to move across China. The increased risks have resulted in unaffordable prices for hiring the brokers to smuggle them from China to freedom and some have even committed suicide in despair. The AI-based facial recognition program has made the North Korean refugees' internal movement by public transportation within China almost impossible.⁹ The monitoring of the WeChat messaging service also poses a risk for the North Korean refugees and their supporters.¹⁰ All this appears to have resulted in the soaring price tag for the North Korean refugees wanting to escape from China.¹¹

Now, Action & Unity for Human rights (NAUH) also confirmed that cost of movement for North Korean refugees willing to make their way to South Korea has quadrupled. The spread

⁷ HRW, "North Korea: Covid-19 Used as Pretext to Seal Border: Enhanced Fences, Guard Posts Further Restrict Movement, Trade" (November 17, 2022), <https://www.hrw.org/news/2022/11/17/north-korea-covid-19-used-pretext-seal-border>

⁸ Josh Smith and Sudev Kiyada, "North Korea spent the pandemic building a huge border wall" (MAY 27, 2023), <<https://www.reuters.com/graphics/NORTHKOREA-BORDER/byvrlwjreve/index.html>>

⁹ Kim Myong-song, "China's AI Eradicates North Korean Escapees through Tailing and Monitoring by Facial Recognition [안면인식으로 미행·감시, 탈북민 씨말리는 중국 AI]", Chosun Ilbo 2023.05.24, <https://www.chosun.com/politics/north_korea/2023/05/24/FOFQFLMURFOZH6GDS53H5A274>

¹⁰ Ji Jeong-eun, "North Korean Escapees Support Groups Concerned by China's Increased Surveillance as a Result of Messenger Censorship [탈북자 지원단체들 "중국 메신저 검열로 감시 확대 우려"]", RFA 2022.02.14, <https://www.rfa.org/korean/in_focus/human_rights_defector-02142022094421.html>

¹¹ William Kim, "China Arrests About 20 North Korean Escapees in a Month; The Cost of Rescuing One Person Skyrockets to Surpass 10,000 Dollars [중국, 한 달 새 탈북민 20 여 명 체포... 구출 비용 1 인당 1 만달러 넘게 폭등]", VOA 2023.2.24, <<https://www.voakorea.com/a/6976835.html>>

of CCTVs and AI technology has made movement within China dangerous for the unregistered North Koreans leading to their capture. While it is sometimes possible to bribe the captured North Korean refugees out from prison, they or their families may not have enough money to buy freedom or, if North Korean women had fled from their Chinese husbands before getting caught by the authorities, the latter may not be willing to make payment. In the case of capture, the international attention is crucial as interventions from the UN or foreign embassies could nudge the Chinese authorities to quietly release the detainees or at least not expedite their deportation to North Korea.

Next Station, another group helping North Koreans abroad, has stated that North Korean women escapees who have married Chinese men are blacklisted and interrogated by the local Public Security officials if they have been connected by social network to North Korean refugees previously caught escaping to South Korea or if their phone numbers are saved in the captured refugees' phones. While they are returned home after the monthly interrogations, they live under the constant fear of arrest and detention by the authorities who ask them to reveal any contact with South Koreans or Christian missionaries. Because the long journey across China to escape to Southeast Asia has become almost impossible because of the COVID-related internal movement restrictions, the escape route to Mongolia has gained popularity, but many escapees are apprehended in Inner Mongolia before they can reach the Mongolian border.

III. China's domestic law, international law and humanitarian principles

In reaction to the exodus of North Korean refugees from the late 1990s, the Chinese government came to adopt its official position that it will handle them in accordance with its domestic law, international law and humanitarian principles. When formally asked by Seoul to treat the North Korean escapees as refugees in 1999, Beijing initially claimed that the issue was an internal matter and relied upon its bilateral treaty with Pyongyang to justify the deportations.¹² In May 2000, the Chinese government pledged to address the North Korean escapees issue in accordance with three principles: (1) observe international law, international

¹² Kwon Dae-yeol, "The North Korean Escapees Are Chinese-North Korean Issue; Chinese Ambassador to South Korea Expresses Hardline View ["탈북자는 중국-북한의 문제" 주한 중대사, 강경입장 밝혀], Chosun Ilbo 1999.09.02., <https://www.chosun.com/site/data/html_dir/1999/09/02/1999090270467.html>

custom and domestic law; (2) ask for the safety of the person from North Korea in line with humanitarian principles; and (3) consider the peace and stability in the Korean peninsula.¹³

Following a spate of attempts by North Korean escapees to enter UNHCR office, embassies and consulates in China, Beijing adopted its “domestic law, international law and humanitarian principles” formula in 2002.¹⁴ Unfortunately, China’s policies since then fail to satisfy its domestic law, international law and humanitarian principles.

1. Domestic law

Article 32 of the Constitution of the People's Republic of China provides that: “The People’s Republic of China may grant asylum to foreigners who request it on political grounds.”¹⁵ Moreover, article 46 of the Exit and Entry Administration Law, enacted in 2012, states that:

Foreigners applying for refugee status may, during the screening process, stay in China on the strength of temporary identity certificates issued by public security organs;

¹³ Hwang Yoo-Sung, “Chinese Spokesperson Zhu Bangzao Says China Will Play Active Role for the Achievement of Inter-Korean Talk [주방짜오 중대변인 " 中 남북회담 성사 적극적 역할 "], Donga Ilbo 2000-05-08, <<https://www.donga.com/news/article/all/20000508/7533284/1>>

¹⁴ 发言人否认有关中日双方已就将撞闯日驻沈阳总领馆的朝鲜人尽快送往第三国达成一致的报道: (2002-05-15 16:58), <https://www.mfa.gov.cn/web/gjhdq_676201/gj_676203/yz_676205/1206_676404/fyrygth_676412/200205/t20020515_7975508.shtml>

¹⁵ Constitution of the People’s Republic of China (Adopted at the Fifth Session of the Fifth National People’s Congress and promulgated by the Announcement of the National People’s Congress on December 4, 1982; amended in accordance with the Amendment to the Constitution of the People’s Republic of China adopted at the First Session of the Seventh National People’s Congress on April 12, 1988, the Amendment to the Constitution of the People’s Republic of China adopted at the First Session of the Eighth National People’s Congress on March 29, 1993, the Amendment to the Constitution of the People’s Republic of China adopted at the Second Session of the Ninth National People’s Congress on March 15, 1999, the Amendment to the Constitution of the People’s Republic of China adopted at the Second Session of the Tenth National People’s Congress on March 14, 2004, and the Amendment to the Constitution of the People’s Republic of China adopted at the First Session of the Thirteenth National People’s Congress on March 11, 2018), <<http://www.npc.gov.cn/englishnpc/constitution2019/201911/1f65146fb6104dd3a2793875d19b5b29.shtml>>

foreigners who are recognized as refugees may stay or reside in China on the strength of refugee identity certificates issued by public security organs.¹⁶

However, China has failed to institute the “screening process” for North Korean asylum seekers or to provide them with “temporary identity certificates issued by public security organs”. This is not unlike China’s similar failure to extend national legal protection to the ethnic refugees from Myanmar.¹⁷

During the CEDAW Committee’s review of China on May 12, 2023, the Chinese delegation made the following response to the concerns raised about the forcible repatriation of North Korean women refugees and trafficking victims in China:

“They came to China and *most of them* were for economic reasons. So we believe that this not pertain to a TIP [trafficking in persons] issue. So we don’t have a relevant data or statistics in this regard. At the same time, I’d like to clarify also that the Chinese government, when treating these women, we use our domestic law as well as international law, in particular the humanitarian principle to appropriately address these issues, these North Korean women who entered illegally in China.” [emphasis added]¹⁸

It is interesting that the Chinese diplomat stated that “most of them”, not “all of them” came to China for economic reasons. It is puzzling therefore why the Chinese authorities have not data concerning the number of North Korean escapees who came for economic reasons and others who came for other reasons such as fleeing political persecution.

China’s incongruent argument bears the question: If China cannot respect its own national law, how can it expect to be respected by the rest of the international community?

¹⁶ Exit and Entry Administration Law of the People’s Republic of China (Adopted at the 27th meeting of the Standing Committee of the Eleventh National People’s Congress on June 30, 2012), <http://english.www.gov.cn/archive/laws_regulations/2014/09/22/content_281474988553532.htm>

¹⁷ Lili Song, “Refugees or Border Residents from Myanmar? The Status of Displaced Ethnic Kachins and Kokangs in Yunnan Province, China”, *International Journal of Refugee Law*, Volume 29, Issue 3, October 2017, Pages 466–487 (Published: 13 September 2017), <<https://academic.oup.com/ijrl/article/29/3/466/4157312>>

¹⁸ UN Web TV, 1977th Meeting, 85th Session, Committee on the Elimination of Discrimination against Women (CEDAW): Consideration of China (12 May 2023), <<https://media.un.org/en/asset/k17/k17kia36io>>

2. International law

China acceded to the UN Refugee Convention and Protocol in 1982 mainly in response to the influx and the need for international support in the resettlement of ethnic Han Chinese or other ethnic minorities from Vietnam and Laos. It has cooperated with UNHCR to that end and has even allowed UNHCR to access asylum seekers from Pakistan, Iraq, Somalia and Eritrea.¹⁹ When it comes to the North Korean escapees, China categorically rejects the individualized determination of their status and gives no access to UNHCR. Despite the obvious persecutions that await the North Koreans deported back to North Korea, it refuses to recognize them as refugees *sur place*.

China is also in violation of the principle of non-refoulement under not only article 33 of the Refugee Convention but also article 3 of the Torture Convention to which it is also a party. While article 33 of the Refugee Convention only protects “refugees”, the status that China has refused to extend to the North Korean escapees, article 3 of the Torture Convention applies to all persons regardless of their legal status (“No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture”). It is noteworthy that the annual North Korean human rights resolution adopted by the UN Human Rights Council on 4 April 2023, for the first time made a reference to the Torture Convention when urging states to respect the principle of non-refoulement although China is not specifically named.²⁰

China has in the past also repatriated South Korean prisoners of war (POWs) who had escaped from North Korea. The forcible repatriation of Mr. Han Man-taek in January 2005 and another unnamed POW in 2017 are the most publicized cases although there could be more less known instances. Such repatriations also engage China’s legal responsibility under the Geneva Convention (III). Although China recognizes the special status and history of South Korean POWs and sends most of them to South Korea unlike other escapees from North Korea, these cases illustrate China’s lack of consistency.

Beijing justifies the deportation of North Koreans under the bilateral treaties with Pyongyang such as the Bilateral Agreement on Mutual Cooperation for the Maintenance of State

¹⁹ Roberta Cohen, “CHINA’S FORCED REPATRIATION OF NORTH KOREAN REFUGEES INCURS UNITED NATIONS CENSURE” (2014), <<https://www.brookings.edu/wp-content/uploads/2016/06/North-Korea-UN-Cohen.pdf>>

²⁰ Resolution adopted by the Human Rights Council on 4 April 2023: 52/28. Situation of human rights in the Democratic People’s Republic of Korea, A/HRC/RES/52/28, <<https://undocs.org/A/HRC/RES/52/28>>

Safety and Social Order (July 1998)²¹ and the Civil and Criminal Law Cooperation Treaty (2003).²² The former treaty provides in article 4 (1) that “Those who do not hold legal documents or have used a crossing point not specified in the documents will be treated as illegal border crossers” and in article 4 (2) that “Illegal border crossers will be returned to the other side with information on their identity and specific situation”.²³

However, such bilateral treaties cannot enable the forced return of North Korean refugees in violation of the international obligation to respect the right to asylum under article 14 (1) of the Universal Declaration, the right to leave one’s own country under article 12 (2) of the Covenant, and the principle of non-refoulement under article 3 (1) of the Torture Convention.

3. Humanitarian principles

Any elementary consideration of humanitarian principles should result in granting of a legal status for the North Korean escapees and the stopping of their deportations back to North Korea where torture, sexual and gender-based violence, forced abortion, imprisonment in brutal labor camps and even executions await them. It is surreal that Beijing talks about humanitarian principles or humane treatment for them in North Korea.

Some Chinese people, including the officials, actually display such humanitarian considerations for North Korean refugees where their government fails to do so. One North Korean escapee stated that Public Security agents who apprehended her quietly released her because they decided that their job was bringing criminals to justice, not arresting and deporting innocent women whose only crime was fleeing North Korea.

²¹ Ministry of Foreign Affairs of the People's Republic of China, [中华人民共和国公安部 朝鲜民主主义人民共和国国家安全保卫部 关于在边境地区维护国家安全和社会秩序的工作中相互合作的议定书], <http://treaty.mfa.gov.cn/Treaty/web/detail1.jsp?objid=1531876990894>

²² Ministry of Foreign Affairs of the People's Republic of China, [中华人民共和国和朝鲜民主主义人民共和国关于民事和刑事司法协助的条约], <http://treaty.mfa.gov.cn/Treaty/web/detail1.jsp?objid=1531876855012>

²³ Protocol between the PRC Ministry of Public Security and the DPRK Social Safety Ministry for Mutual Cooperation in Safeguarding National Security and Social Order in Border Areas: This document was made possible with support from MacArthur Foundation (June 9, 1964), <<https://digitalarchive.wilsoncenter.org/document/protocol-between-prc-ministry-public-security-and-dprk-social-safety-ministry-mutual>>

Some ethnic Korean Chinese pastors who assisted the North Korea escapees in China face assassination or kidnapping by North Korean agents while the Chinese government turns a blind eye. These ethnic Korean Chinese pastors are on their own and can expect no help or protection from any government.

It is ironic that the Chinese authorities deport North Korean women to North Korea where forced abortion or infanticide of their babies awaits them because of the “Chinese blood” is viewed as corrupting “Korean racial purity”. I cannot think of any country other than North Korea that carries out mass abortions or infanticides on such a racist ground; nor can I think of any country other than China that would enable such mass abortions or infanticides against “its own blood”.

As Roberta Cohen has repeatedly pointed out, UNHCR in 2004 categorized North Korean escapees in China as “persons of concern” meriting humanitarian protection and proposed that China create a special humanitarian status for them to provide them with temporary documentation, access to services and protection against refoulement. Beijing has all but ignored this proposal.

In the recent years, Public Security officials in certain localities in China have issued 1-page documents, misleadingly called “residence permits”, to the North Korean women married to Chinese men for a considerable financial price. However, this should not be confused with the special humanitarian status recommended by UNHCR in 2004. While these documents allow the holders to move, for instance by bus, within the locality, they are primarily a means of control for the local Public Security authorities that enables a systematic monitoring of the North Korean women. These permits are not a pathway to a full-fledged Chinese citizenship, do not provide access to medical or other basic services and certainly do not allow traveling beyond the localities let alone resettling in a third country like South Korea. In fact, the local Public Security officials discourage their contact with South Koreans and Christian missionaries and encourage them to report such contacts by other North Korean refugees.

These North Korean women are also effectively denied lawful job opportunities because of their precarious legal status. They are forced to make a living from illegal activities such as drug trafficking and prostitution which in turn lead to their arrests by the authorities. In short, the existence of North Korean women is tolerated by the local authorities only in so far as they serve as wives to sometimes abusive Chinese husbands and as mothers to their children deprived of individual freedom or agency.

The fundamental problem is that the central government in Beijing views North Korean refugees mainly as pawns in geopolitics rather than human beings with dignity and rights. Perhaps one should expect no less from a government that has incarcerated over a million Muslim Uyghurs in Xinjiang as slave laborers. Nevertheless, Beijing’s geopolitical calculations and concerns are also divorced from the reality on the ground and colored by paranoia.

It is true that Hungary's decision in 1989 to open its borders with Austria which created the corridor for a mass exodus of East Germans to West Germany triggered the sudden fall of the Berlin Wall. However, North Korea in 2023 is nothing like East Germany in 1989 as much as one wishes so. There are no indications whatsoever that the North Korean people are ready to escape their country *en masse* to a third country through a possible Chinese corridor. The policy inertia from the 1990s when North Korea was actually on the brink of collapse continues to take its toll. It is difficult to see how the current policies serve China's geopolitical interests.

IV. The need for international actions

Given the dire human rights and humanitarian crisis that will unfold in the event of the resumption of the forcible repatriation of North Korean refugees in China, the international community must act now to pierce the fog of totalitarianism and to hold Beijing accountable to its domestic law, international law and humanitarian principles.

As a preliminary matter, the international community must call upon China to release relevant information, data and statistics including: (1) the number of North Korean detainees that are awaiting deportation to North Korea; (2) the number of North Koreans who have been issued "residence permits" by the local authorities and their legal significance; (3) the known number of children borne between North Korean women and their Chinese husbands; and (4) the procedure for applying for the refugee status by North Koreans if one exists.

China also needs to (1) end the policy of refoulement for North Korean escapees; (2) implement the process for individualized determination of the refugee status for North Korean asylum seekers as it is required to do under both the UN Refugee Convention and Protocol as well as article 46 of the Exit and Entry Administration Law with UNHCR's technical assistance; (3) provide North Koreans with temporary documentation, access to health and other basic services and protection against refoulement; and (4) permit North Korean refugees and their children to emigrate from China and resettle in third countries such as South Korea.

As China is unlikely to heed such calls voluntarily, the international community must take concrete actions to effect a change. China's fourth cycle Universal Periodic Review (UPR) will take place in early 2024 where the UN Member States can publicly raise concerns and make specific recommendations concerning North Korean women in China. It would be desirable to see many human rights NGOs making written submissions by the impending deadline on July

18, 2023 and to make concerted advocacy efforts to government delegations, most notably at the pre UPR session on December 1, 2023.²⁴

As the 10th anniversary of the COI report on North Korea approaches, there have been calls for an updated, strengthened UN accountability mechanism for North Korea's crimes against humanity that takes into account the models offered by Syria IIM and Myanmar IIMM which are mandated to prepare case files to facilitate criminal prosecution. If such a new robust UN accountability mechanism is created for North Korea, it needs to also document the perpetrators and accomplices on the Chinese side.

The international community should also consider transforming Office of the High Commissioner for Human Rights (OHCHR) Seoul which currently only has mandate over North Korea into a Regional Office for Northeast Asia including China, similar to the OHCHR Regional Office for South-East Asia in Bangkok established in 2002²⁵ or the OHCHR Regional Office for Central Asia in Bishkek, Kyrgyzstan established in 2008.²⁶ OHCHR came close to establishing a Regional Office for Northeast Asia in Seoul in 2008, but China reversed and torpedoed the plan at the last minute following the international outcry over a series of self-immolation by Tibetan monks in protest against China's oppression. It is not too late to revive the plan and see it through this time in spite of Beijing's opposition.

The United Nations High Commissioner for Refugees (UNHCR) also needs to play a more active role for the North Korean refugees in China as it once did in the past. In September 1999, François Foinat, Director of UNHCR for Asia Pacific region, acknowledged the existence of a "small group of refugees" among North Koreans in China. UNHCR was barred from accessing the border regions afterwards although it continued to seek access from Beijing.²⁷ Since 2004, UNHCR has considered North Korean escapees in China as "persons of concern" who deserve humanitarian protection. During his visit to China in March 2006, then-High Commissioner António Guterres in his own words had "very intense, frank and meaningful discussions" with the Chinese officials about North Koreans in China and the need to treat them as "refugees sur-place."²⁸ Even as late as May 2013, then-High Commissioner Guterres publicly

²⁴ <https://www.upr-info.org/en/review/china>

²⁵ OHCHR Regional Office for South-East Asia, <<https://bangkok.ohchr.org/who-we-are>>

²⁶ OHCHR – Central Asia Regional Office, <<https://www.ohchr.org/en/countries/asia-pacific-region/ohchr-central-asia-regional-office>>

²⁷ Kris Janowski, "UNHCR seeks access to North Koreans detained in China" (21 January 2003), <<https://www.unhcr.org/news/news/unhcr-seeks-access-north-koreans-detained-china>>

²⁸ Statement to media by Mr. António Guterres, United Nations High Commissioner for Refugees, on the conclusion of his Mission to the People's Republic of China, Beijing (23 March 2006),

“expressed grave concern” over the safety and security of nine North Koreans who were reportedly deported from Laos to China,²⁹ Beijing panned it as “irresponsible remarks.”³⁰

However, UNHCR has been conspicuously silent and absent on the North Korean refugee issue since 2013. At the same time, High Commissioner Filippo Grandi has been a regular visitor to Beijing and a champion of China’s Belt and Road Initiative which he said could “definitely” help with global refugee work.³¹ UNHCR can be asked to make public the contributions it has received directly or indirectly from the Belt and Road Initiative for its resettlement projects over the years if this information is not publicly available already.

UN Secretary-General António Guterres should play a more active role in offering good offices to ask President Xi Jinping to reconsider China’s policy towards North Korean refugees given his extensive experience handling the issue during his previous stint as the High Commissioner for Refugees. The United States and other countries must actively seek Secretary-General Guterres’s involvement. The South Korean government officials in particular who likes to say that “for South Koreans, people in the North are not just anybodies” should put their money where the mouth.

In the joint summit statement by Presidents Yoon and Biden on April 26, 2023, the two countries pledged to “strengthen cooperation to promote human rights in the DPRK as well as to resolve the issues of abductions, detainees, and unrepatriated prisoners of war” and condemned “the DPRK’s blatant violation of human rights and the dignity of its own people and its decision to distribute its scarce resources to weapons of mass destruction development”. While symbolic, this sent a strong signal to Pyongyang that South Korea and the United States will not simply forget issues like the six South Korean citizens detained by North Korea in the past decade (Kim Kuk-gi, Choi Chun-gil; Kim Jeong-wook; Kim Won-ho, Ko Hyon-chol and another individual whose name is not known) and gave hope to their families in South Korea that their loved ones will be returned home as was the case for the last three US citizens (Kim Dong Chul, Tony Kim and Kim Hak Song) released on May 9, 2018.

<<https://www.unhcr.org/publications/statement-media-mr-antonio-guterres-united-nations-high-commissioner-refugees>>

²⁹ UNHCR, “UNHCR chief calls on states to respect non-refoulement after North Koreans deported from Laos” (30 May 2013), <<https://www.unhcr.org/news/news-releases/unhcr-chief-calls-states-respect-non-refoulement-after-north-koreans-deported>>

³⁰ Reuters, “China warns U.N. against 'irresponsible remarks' on North Koreans” (JUNE 3, 2013), <<https://www.reuters.com/article/us-korea-north-china-idUSBRE95209W20130603>>

³¹ Xinhua, “Belt and Road Initiative helps with refugee work: UNHCR” (2018-08-12), <<https://www.chinadaily.com.cn/a/201808/12/WS5b6f7a52a310add14f385415.html>>

Earlier, on December 9, 2022, 31 states at the United Nations, including South Korea and the United States, expressed “concern with the human rights situation of citizens of the Republic of Korea detained in the DPRK, abductions and enforced disappearances of Japanese and Republic of Korea citizens, and other nationals who are kept against their will in the DPRK, and unrepatriated prisoners of war” and strongly urged “the DPRK to resolve all outstanding issues with detainees, abductees, and disappeared and immediately return them to their homes.”³²

In the same vein, the two governments should prepare bilateral and multilateral statement at the UN General Assembly or Human Rights Council expressing concerns about the North Korean refugees in China, in particular urging China to end their *refoulement* without individualized determination of the refugee status. It may also be helpful to highlight China’s legal and political responsibility if and when the UN Security Council can secure the elusive 9th vote to finally resume a public briefing and discussion about the North Korean human rights situation.

Also, given China and Russia’s recent propensity to veto any resolutions against North Korean military provocations at the UN Security Council, once cannot rule out the possibility of convening an emergency special session at the UN General Assembly if North Korea embarks upon a major escalation with the resumption of a nuclear test or actual cross-border attacks against South Korean targets. Last year, the Russian invasion of Ukraine was promptly taken up by an emergency special session of the UN General Assembly immediately after the expected vetoing at the UN Security Council. If a similar scenario plays out for North Korea, the UN General Assembly should also discuss related crimes against humanity and other grave human rights violations, including China’s complicity.

Committed states may also institute proceedings against the DPRK at the International Court of Justice (ICJ) for its violation of the Genocide Convention as the latter made no reservation to the dispute resolution clause (article IX) granting jurisdiction to the ICJ when it became a state party in 1989 unlike China which did make such a reservation.³³ It has been argued in the past that North Korea’s mass forced abortions and infanticides against pregnant North Korean women repatriated from China and their children on racial grounds as well as the extermination of the Christian population amount to genocide.³⁴ If this indeed the case, any state

³² Joint Statement Delivered by Ambassador Linda Thomas-Greenfield on the Human Rights Situation in the Democratic People’s Republic of Korea (December 9, 2022), <<https://usun.usmission.gov/joint-statement-delivered-by-ambassador-linda-thomas-greenfield-on-the-human-rights-situation-in-the-democratic-peoples-republic-of-korea>>

³³ UNTC, Convention on the Prevention and Punishment of the Crime of Genocide (Paris, 9 December 1948), <https://treaties.un.org/pages/ViewDetails.aspx?src=IND&msgid=IV-1&chapter=4&clang=_en>

³⁴ Robert Park, the author of “North Korea and the Genocide Convention” (2011); Hogan Lovells (2014) Crimes Against Humanity: An independent legal opinion on the findings of the Commission of Inquiry on Human Rights in

party to the Genocide Convention can bring proceedings against the DPRK at the ICJ as The Gambia recently did against Myanmar for the latter's "ethnic cleansing" and mass deportation of the Rohingya.³⁵ China's role and complicity can be discussed in such an ICJ proceeding.

Collection of more information about the prison facilities housing North Korean detainees in China using satellite images, coupled with possible interviews with former guards or inmates, may be helpful in raising visibility of the issue and identifying the officials responsible. BuzzFeed has identified 268 new prisons built in Xinjiang since 2017 using satellite imagery and testimonies of former prisoners using this method.³⁶ This information can also be used to identify local officials responsible for the operation of these prisons for the purpose of targeted sanctions under the Global Magnitsky Act.

Congress can also consider strengthening the existing sanctions legislation against North Korea to target the Chinese individuals and entities that are complicit in North Korean human rights violations. The North Korea Sanctions and Policy Enhancement Act (NKSPEA) already provides that "any significant goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by the labor of North Korean nationals or citizens shall be

the Democratic People's Republic of Korea, pp.42-60; Human Rights Abuses and Crimes Against Humanity in North Korea, Meeting and hearing before the Subcommittee on Africa, Global Health, Global Human Rights and International Organizations of the Committee on Foreign Affairs, House of Representatives (June 18, 2014), <<https://www.govinfo.gov/content/pkg/CHRG-113hrg88389/html/CHRG-113hrg88389.htm>>, <<https://foreignaffairs.house.gov/hearing/subcommittee-briefing-and-hearing-human-rights-abuses-and-crimes-against-humanity-in-north-korea>>, statement by the Honorable Lee Jong Hoon, Ambassador-at-Large for Human Rights, Republic of Korea ("I am here to make public for the very first time the commissioned work by Hogan Lovells, which unequivocally endorses the findings and recommendations of the COI. But Hogan Lovells goes a step further to charge that the North Korean regime may be guilty of the crime of genocide. ... The Human Liberty report contends that an argument for genocide could be made on the basis that these mixed-race children who are victims of infanticide will qualify as a protected group under international law on racial and ethnic grounds. Considering the strict and narrow defines of the term genocide, the COI report was hesitant in charging the North Korean regime of genocide, suggesting instead that perhaps the term political genocide might be more applicable. The Human Liberty report prepared by Hogan Lovells, however, finds enough evidences to conclude that in North Korea genocide is taking place."); Jonathan Cheng, "As World Attention Fades, A Fresh Call for North Korea 'Genocide' Label", June 17, 2014, <<https://www.wsj.com/amp/articles/as-world-attention-fades-a-fresh-call-for-north-korea-genocide-label-1403056510>>; Lee, Hyunmok, "Rethinking the 1948 Genocide Convention for North Korean Political Camps" (2019), Maurer Theses and Dissertations 62, <<https://www.repository.law.indiana.edu/etd/62>>

³⁵ ICJ, "Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)", <<https://www.icj-cij.org/case/178>>

³⁶ Megha Rajagopalan, Alison Killing and Christo Buschek, "Built to Last", BuzzFeed, August 27, 2020, <<https://www.buzzfeednews.com/article/meghara/china-new-internment-camps-xinjiang-ughurs-muslims>>

deemed to be prohibited under section 1307 of title 19 and shall not be entitled to entry at any of the ports of the United States”.³⁷

Given that the North Korean escapees repatriated from North Korea to China provide slave labor from North Korea’s labor camps that serve Chinese businesses and overseas North Korean workers still in China in violation of UN sanctions also serve Chinese businesses in northeastern China, the Chinese exporters from this area may be required to prove that North Korean labor was not involved in their products.

In light of “juche wall” or “juche curtain” that the North Korean government has been busily building along its border with China, alternative **escape** routes for North Koreans such as the direct seaborne flight from North to South Korea will take on greater importance in the future. There have been reports of North Korean “boat people” being turned back by the South Korean forces during the previous Moon Jae-in administration in South Korea although forcible repatriation of two North Korean fishermen, Mr. Woo Beom-seon and Mr. Kim Hyun-wook, in November 2019 remains the only publicly exposed case. The words about these incidents travel fast through the remaining families in the North of escapees and have effectively discouraged many North Koreans from risking their lives to flee directly to the South by sea. Not only should the South Korean government fully investigate the past allegations of refoulement of North Korean escapees but more importantly implement institutional reforms to guarantee the due process rights, including the right to an attorney during the interrogation and judicial control of the process, of the newly arriving seaborne escapees to prevent recurrence of forcible repatriation in the future regardless of who is in power in Seoul.

It is important to secure a safe passage to a third country for permanent resettlement like South Korea for the few North Korean refugees who are still miraculously able to make their way to Mongolia, Vietnam, Laos and other transit countries. As making the long journey to southern China becomes more difficult, many North Korean escapees are heading to Mongolia but this is also a journey fraught with danger and even if they cross the border into Mongolia proper, their fate remains uncertain. Last month, the Mongolian border guard briefly announced the capture of four North Koreans on their website before quickly taking down the posting.³⁸ It is not encouraging the current Mongolian government allowed the Chinese police operating in Ulaanbaatar to apprehend and repatriate a political dissident from Inner Mongolia.³⁹ Diplomatic

³⁷ <https://uscode.house.gov/view.xhtml?path=/prelim@title22/chapter99&edition=prelim%20>

³⁸ Ifang Bremer, “Mongolia detains 4 North Koreans who illegally crossed into country from China: Expert says Ulaanbataar may be trying to curry favor with Pyongyang ahead of key diplomatic anniversary” (May 18, 2023), <<https://www.nknews.org/2023/05/mongolia-detains-4-north-koreans-who-illegally-crossed-into-country-from-china>>

³⁹ Southern Mongolian Human Rights Information Center (SMHRIC), “Chinese police makes arrest on Mongolian soil, deporting prominent writer” (May 11, 2023), <https://www.smhric.org/news_720.htm>

and political efforts must be made with respect to the key bordering countries like Mongolia, Vietnam and Laos to make them more hospitable for the North Korean defectors.

Lastly, I would like to conclude by conveying a message to the Congressional-Executive Commission on China from Ms. Kim Jeong-ah of the Rights for Female North Korean Defectors (RFNK), a courageous North Korean woman escapee who had to leave behind one daughter in North Korea and another in China when fleeing to South Korea, on her behalf. Ms. Kim specifically told me to share with you the pain of continuing her human rights advocacy despite being diagnosed with liver cirrhosis after 14 years of forced separation with her daughter in China because of a Chinese man that she had to forcibly marry through human trafficking; she said that the RFNK submission to the CEDAW Committee was made through this painful process; she concluded by imploring me to remind the esteemed members of the Commission that the heart-wrenching pain of North Korean women escapees like her in South Korea is not some experience from 14 years in the past but an ongoing ordeal—so long as China persists with its policy of refolement.

Thank you.



Testimony of

Hanna Song

Director of International Cooperation, Database Center for North Korean Human Rights (NKDB)

BEFORE

The Congressional Executive Commission on China (CECC)

ON

“North Korean Refugees and the Imminent Danger of Forced Repatriation from China”

June 13, 2023

Mr. Chair, Mr. Co-Chair Senator Jeff Merkley, and distinguished Members of the Commission:

I am honored to appear before you today to discuss the urgent and critical situation of North Korean escapees in China. I am the Director for International Cooperation and a researcher at the Database Center for North Korean Human Rights (NKDB), and I want to speak to you today on behalf of the thousands of North Koreans whose voices have been silenced by both their own North Korean government and the Chinese government where they sought refuge.

Kim 00 was trafficked into China at 18 years old. For over a decade, she lived in hiding, constantly evading authorities and struggling to survive. However, her life took a tragic turn when an accident exposed her lack of identification. She was taken in by the Chinese public security bureau and ultimately repatriated to North Korea. There, she endured torture and punishment, sentenced to five years in prison for being a so-called ‘traitor to the state.’ As soon as she was released from prison, in 2019, she crossed the border again. This time, she was determined to make it to South Korea but her plans were derailed by the onset of the COVID-19 pandemic. For four long years, she hid in China, under increasing surveillance, living in fear of what would happen if she would get caught again knowing full well the c

consequences if she was sent back to North Korea. She finally found a broker in 2023 who warned her of impending repatriations. Desperate to avoid her past fate, she took a leap of faith and paid a steep price to secure her passage to South Korea. Ms. Kim's journey reflects the resilience and courage of those who strive for freedom against all odds. Unfortunately, her new start in South Korea is not the ending that the thousands of North Koreans detained in China will be able to experience if we do not act now.

No protection or recognition in China

There are an estimated more than 10,000 North Koreans who have fled across the border into China, some have been trafficked and some have fled with the hope for a better life. They reside clandestinely and without legal status or protection. North Korean escapees in China unequivocally meet the refugee definition set forth by the 1951 Refugee Convention. Their stories are filled with unimaginable suffering and their pursuit of freedom is both courageous and urgent. The horrifying fate that awaits these escapees if they were to be forcibly returned to North Korea is unimaginable. Arbitrary detention, torture, forced labor, and even execution are the grim realities they face. The fear they carry is not unfounded; it is well-documented and based on countless testimonies of those who have managed to escape the oppressive regime. The Chinese government has routinely labeled North Koreans who fled from North Korea as “illegal economic migrants” and forcibly repatriated them under a bilateral border protocol signed by the governments of North Korea and China in 1986. NKDB has recorded 8,125 cases of forced repatriation of North Koreans in its Database and 32,198 cases of human rights violations that were inflicted on those upon repatriation including torture, sexual violations and executions.

The threat posed by China's surveillance technology and life during COVID

Despite the well-known reality that North Koreans face when they are forcibly repatriated, they are still considered illegal immigrants by the Chinese government and are subject to arrest and repatriation to North Korea. This fear of repatriation prevents many North Koreans from seeking help from Chinese authorities or other organizations, leaving them vulnerable to exploitation and abuse. This fear has increased exponentially due to the threat posed by China's surveillance technology to North Korean refugees. China's increasing use of emerging technology is being used as a tool of repression that affects the most vulnerable groups including North Korean refugees. Many North Koreans spoke about how the advanced surveillance capabilities, such as facial recognition and biometric systems, are used to monitor and track the movements of those in China. However, anonymity, invisibility, and use of the underground system is essential to avoid repatriation. The living condition

s of North Korean escapees in China during China's implementation of its Zero-Covid Policy.

The annual number of North Korean defectors arriving in South Korea before the COVID-19 pandemic used to reach around 1,000 individuals. However, the combination of China's surveillance technology and North Korea's extreme border measures, including shoot-on-sight orders and the expansion of fences, led to a dramatic decrease in defections last year, with only 67 individuals successfully making it to South Korea. The extensive use of video cameras and facial recognition software has been instrumental in suppressing these numbers, making it incredibly challenging for North Koreans to escape.

Testimonies indicate that the cost of broker fees has surged from 20 million won (approximately 15,000 USD) per person prior to COVID-19 to 50 million won (around 38,000 USD) per person as of early 2023. Over the past three years, broker fees have more than doubled, reaching 2.5 times their previous amount. It can be inferred that the risks associated with defection from North Korea have heightened due to the heightened blockade of the North Korea-China border and the intensified security measures to prevent defections. Consequently, there is a scarcity of brokers, as fewer individuals are willing to undertake the associated risks. Troublingly, there have been instances where brokers have rejected offers of 100 million won (approximately 75,000 USD) due to concerns about security. Furthermore, brokers face significant obstacles in supporting defections from North Korea, as China has embraced electronic payment systems linked to identification, making it difficult to utilize cash as a means of covert transactions. The proliferation of facial recognition technology in China has further compounded the challenges, as it significantly augments surveillance efforts and restricts the movements of North Koreans.

The decline in defections does not stem from a diminished desire among North Koreans to escape their oppressive regime. Rather, it reflects the mounting difficulties imposed by China's pervasive surveillance measures. Regrettably, this situation has enabled China to achieve its objective of effectively curtailing successful defections and further entrenching its control over the situation.

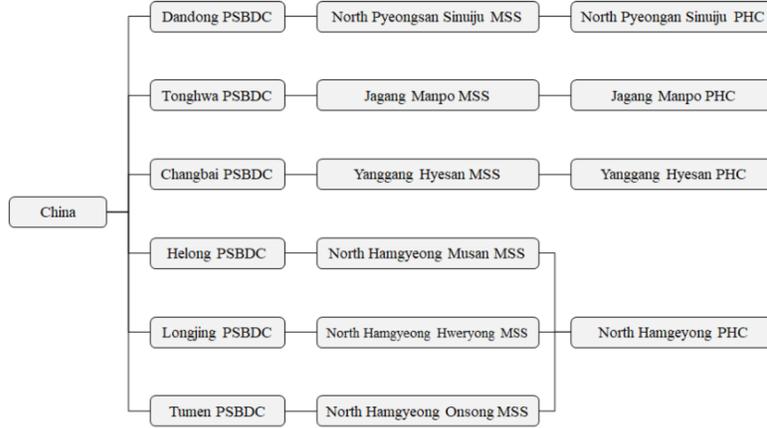
As COVID-19 restrictions have started to ease, there have been notable instances of North Koreans in China endeavoring to defect once more to South Korea. Tragically, these attempts have resulted in a surge of arrests. The Database Center for North Korean Human Rights (NKDB) has witnessed an increasing number of North Korean escapees residing in South Korea, who have come forward to share distressing accounts of their family members being apprehended and detained in China while attempting to flee again. The Chinese police, who previously refrained from actively arresting these individuals due to the challenges associated with repatriation, have now intensified their efforts to forcibly repatriate them to North Korea.

Thousands awaiting forced repatriation across the border

The Special Rapporteur on the Situation of Human Rights in the DPRK, has also expressed concern that the COVID-19 pandemic, and the resulting closure of the Sino-North Korean border, has led to a sharp increase in the number of North Korean escapees who are continuously detained as they wait to be repatriated back to North Korea. The event of an opening of the border and the resumption of forced repatriation, these victims face harsh human rights violations upon their return to North Korea.

The estimated figures, ranging from 600 to 2,000, suggest that the detention centers in China, especially those situated near the borders, are operating at full capacity. As an organization with extensive experience in interviewing North Koreans who have successfully entered South Korea, we have diligently documented that around 60% of escapees who utilized the China route have faced at least one arrest during their arduous defection journey. However, since the onset of the COVID-19 pandemic, the escapees we have spoken to reported a notable change – they have not been subject to arrests. Regrettably, this implies that those who are currently apprehended are no longer being released, exacerbating the already dire situation faced by North Korean refugees. These observations lead us to a grave assumption: the number of individuals detained is likely increasing, creating a growing population of vulnerable individuals held captive within the Chinese detention system.

Once North Koreans are arrested and interrogated by the public security bureau they are sent to be detained and repatriated through the Public Security Border Defense Corps (PSBDC) in the areas near the Sino-North Korean border. NKDB, through field investigations as well as interviews with former detainees and former Chinese officials have been able to confirm the location of six major Public Security Border Defense Corps (PSBDC) detention facilities which are located in the border regions with North Korea.



Source: 2020 White Paper on North Korean Human Rights,
Database Center for North Korean Human Rights

Without access to firsthand accounts from detainees or insider sources, it becomes challenging to ascertain the complete scope of the circumstances within which North Korean refugees are being held in these facilities. To gain insights into the situation, NKDB has closely monitored the six established repatriation routes for any notable changes, particularly during the COVID-19 pandemic. Examination of satellite imagery by NK Pro based on information provided by NKDB reveals significant developments at the Public Security Border Defense Corps (PSBDC) facility in Helong, known for its involvement in repatriating North Korean refugees to Musan in North Hamgyong Province. The satellite imagery has revealed the construction of new fencing and additional facilities surrounding a watchtower overlooking the border. Furthermore, in the summer of 2021, new buildings were erected within the premises of the detention centers, as well as the renovation of the existing main building. These observations raise compelling questions: Who was mobilized to undertake the construction of these facilities, and what factors necessitated the expansion of this particular detention center?

The inability to directly answer essential questions regarding the detention facilities in China, particularly in relation to the treatment of detained North Korean refugees, raises significant concerns. In the past, we had access to North Korean escapees who had managed to flee to safety, providing crucial insights into the human rights violations they encountered. However, the current lack of direct access hampers our ability to fully comprehend the conditions within these facilities. This knowledge gap is deeply troubling, as it can lead to impunity, an increase in human rights violations, and a lack of accountability. When we are unable to fully investigate and understand the operations and practices within these detention fac

ilities, perpetrators of human rights abuses are emboldened. The absence of external scrutiny allows for violations to occur without consequence, perpetuating a climate of unchecked mistreatment and further eroding the rights and dignity of individuals. The lack of transparency and accountability fosters an environment where abuses can thrive, undermining the principles of justice and human rights.



Across the border from the Helong PSBDC is Musan County, a border town where one of the North's biggest iron mines is located. Once North Korea reopens its border with China, Beijing is widely expected to repatriate the North Korean escapees back to the North. If this massive repatriation takes place, a humanitarian crisis will unfold. Reports from survivors detail harrowing experiences of torture, including

beatings, electric shocks, and sexual violence perpetrated by North Korean security forces upon repatriation. These acts are aimed at instilling fear and further subjugating the repatriated individuals, forcing them into compliance with the oppressive regime's demands. In addition to physical torture, repatriated individuals are often subjected to forced labor, being forced to work in grueling conditions without proper remuneration or basic rights.

The eyes of North Korea watchers around the world are fixed on the highly anticipated opening of the North Korean and Chinese border. This development not only carries implications for trade and economic exchanges but also holds significant potential for preventing North Koreans from being isolated from the rest of the world once again. The opening of the border represents a ray of hope for the North Korean people, as it signifies a possible pathway to increased engagement, exposure to different ideas, and access to vital resources. The long-standing isolation and strict controls imposed by the North Korean regime have kept its citizens cut off from global developments and limited their opportunities for growth and progress.

However, amid this positive anticipation, concerns persist regarding the fate of North Koreans who are currently detained at the border, anxiously awaiting repatriation. These individuals, who have risked their lives to escape the oppressive regime, now find themselves in a precarious situation. The fear of being forcibly returned to North Korea, where they would face severe punishment and persecution, looms heavily over them.

The Database Center for North Korean Human Rights has been honored to engage with the remarkable individuals who have defied immense challenges to find sanctuary in South Korea amidst China's Zero-Covid Policy and the closure of the DPRK-Chinese border. However, we must acknowledge that these individuals represent a fortunate few. We must not forget the thousands who continue to endure lives overshadowed by fear, yearning for the day they too live in freedom.

It is imperative that the United States government and the international community take every possible measure to prevent the forced repatriation of North Korean refugees and provide them with the necessary protection they urgently require. Robust diplomatic efforts must be undertaken to urge China to refrain from forcibly repatriating these vulnerable individuals and instead grant them access to asylum procedures. In addition, we strongly recommend facilitating the safe passage of North Korean refugees to South Korea or other third countries. Furthermore, we call upon China to grant the International Committee of the Red Cross (ICRC) access to the detention facilities where North Korean refugees are held, and the United Nations Refugee Agency (UNHCR) must be empowered to exercise its mandate and ensure the safety and well-being of detained North Korean refugees.

Let us remember that the fate of these individuals hangs in the balance. Their lives are marked by unimaginable suffering and the constant fear of persecution. As a global community, we have a responsibility to protect and support those who have risked everything in pursuit of freedom. Through concerted efforts and unwavering commitment, we can create a future where no North Korean refugee is left behind, and where the fundamental principles of human rights and dignity prevail.

Thank you.

PREPARED STATEMENT OF HON. CHRIS SMITH

Some of you may have crossed the Potomac River to attend this hearing today. It flows alongside our nation's capital past many iconic landmarks. For those who are currently watching this hearing from South Korea, the Han River flowing through Seoul likewise holds tremendous historical, cultural, and economic importance.

However, for many North Koreans who brave the treacherous journey across the Yalu and Tumen Rivers—natural borders between North Korea and China—those rivers represent only sorrow and terror. These rivers have been their only means of escape from the world's cruelest family dictatorship, necessitating desperate crossings by small boat, swimming directly or walking across frozen waters amid the bitter Korean winter—all while knowing that an alert border guard with shoot-to-kill orders could end their lives in an instant.

Even after successfully crossing the Yalu or Tumen Rivers, the plight of a North Korean refugee can rapidly take a turn for the worse. Startling estimates indicate that up to 80% of female North Korean refugees become victims of human traffickers, who exploit them in the lucrative sex trade industry. It is believed that this illicit trade generates over \$105 million annually for North Korean and Chinese criminal networks.

The lucky ones try to remain hidden. According to a recent report by Global Rights Compliance, an international human rights law firm, there are approximately half a million female North Koreans, some as young as 12, hiding in border regions. If they are discovered, they face the likelihood of forced repatriation—or to use the technical term, “refoulement”—to North Korea.

Today's hearing is especially timely because we have good reason to believe that such repatriation is imminent, as North Korea reopens its border following its extended closure in the wake of the COVID pandemic.

It is reported that approximately 2,000 North Korean refugees are awaiting imminent forced repatriation, which would subject them to severe human rights violations upon their return to North Korea, some of which we will hear about in testimony from our witnesses.

I shared this deep concern regarding the perilous situation of North Korean refugees in China directly with António Guterres, the Secretary-General of the United Nations, when he visited my office on April 27. I believe that while there are limits to what our government and the South Korean government can do to influence Chinese decision making in this regard, the UN is well positioned to use its influence, given how much the Chinese government seeks validation from, and indeed seeks to influence, the United Nations system. So I ask again, Secretary-General Guterres, please use your influence to the utmost to dissuade the Chinese government from forcibly repatriating these refugees.

It is also extremely important that the United Nations High Commissioner for Refugees (UNHCR) Filippo Grandi take a more active role on behalf of these refugees.

One of our highly distinguished witnesses today, Ambassador Jung-Hoon Lee, points out that “The legal tools are there for the UNHCR to do more for the North Korean defectors. The UNHCR concluded a bilateral agreement with China in 1995 that granted the UNHCR's staff in China unimpeded access to refugees within China. Determining who is a refugee requires interviewing the prospective asylum seekers. With China strictly preventing UNHCR access to North Koreans near the border, the process towards refugee recognition has been completely thwarted. The forcible repatriation of North Koreans seeking refuge in China is a blatant breach of Beijing's obligations under the 1951 UN Convention Related to the Status of Refugees and its 1967 Protocol.”

On May 30, the UN Committee on the Elimination of Discrimination against Women issued its Findings of their review of China, calling for unrestricted access by the UNHCR and relevant humanitarian organizations to victims of trafficking from North Korea in China. CEDAW has also recommended that China regularize the status of North Korean women who face human rights violations such as forced marriage and human trafficking, and refrain from cracking down on them due to their undocumented status.

Against this moral pressure, however, are malign incentives—both political and economic—for the People's Republic of China to repatriate refugees to North Korea. North Korea and its dictator Kim Jong Un view those who flee the dictatorship as traitors, which gives China a political incentive to placate a Communist ally which remains a thorn in the side of the United States and our allies. Economically, a written submission for this hearing, which I ask to be entered into the record, from Citizens' Alliance for North Korean Human Rights (NKHR), a human rights NGO

based in Seoul, sheds light on the disturbing economic incentives that China has in forcibly repatriating these refugees. According to their ongoing investigation, “There is a high probability that a portion of products originating from North Korea but produced for Chinese companies have been made in prisons detaining repatriated North Korean refugees from China using forced labor and other human rights violations.” This suggests that businesses in China are profiting from the exploitation of repatriated North Korean refugees, an issue that demands thorough investigation and accountability.

There is of course a role that both the South Korean government, and our government, and indeed Congress and this Commission, can play. The CECC does report on the situation of North Korean refugees in China in its annual report—and this year the CECC will likely issue a stand-alone report on the issue—while today’s hearing is an example of how we can bring attention to this impending humanitarian disaster. I myself have chaired seven congressional hearings on North Korean human rights, and I have also introduced new legislation—H.R. 638, the China Trade Relations Act of 2023—that withdraws China’s Permanent Normal Trade Relations (PNTR) status unless there are substantial and sustained improvements in human rights—including how China treats refugees within its borders.

The refugees in question are not mere statistics; they are individuals with inherent rights, hopes, dreams, and aspirations. China has failed to confront the human traffickers who prey on vulnerable North Koreans. If Beijing wishes to be recognized as a true leader in the global community, it must not be complicit in the plight of North Korean refugees in China who are under imminent danger of repatriation.

Human rights transcend mere privilege; they are an inherent entitlement. We cannot turn a blind eye to China’s complicit and flagrant violations of human rights.

I eagerly anticipate exploring further avenues of collaboration—including with the Government of South Korea—to emphasize the significance of this issue as we explore our policy options through our witnesses’ testimony.

PREPARED STATEMENT OF HON. JEFF MERKLEY

This Commission tries to do its part to shine a light on the plight of North Korean refugees in China, with this year marking the 20th year that we have dedicated a chapter of our Annual Report to this topic. Yet we last held a hearing on this 11 years ago, so this hearing is way overdue and thank you for arranging it. In many ways, not much has changed. In fact, the announcement for the Commission’s first public event on North Korean refugees, way back in 2004, included many of the same characterizations we’ll hear about today: desperate individuals fleeing North Korean government persecution and severe food shortages; Chinese authorities’ willful refusal to assess any of these individuals as refugees; stonewalling UN Refugee Agency efforts to help those in need.

Precisely because so little has changed is why we can’t avert our eyes. Human rights abusers play a waiting game, waiting for the world to grow weary, outrage to dissipate, and people to move on. But those who are suffering cannot move on. The North Korean and Chinese governments are playing the same cynical game, and we can’t let them off the hook.

As we’ll hear today, the Chinese government has obligations under Chinese law, under international law, and under basic humanitarian decency to provide individualized determination of the refugee status of asylum seekers. Instead, China’s approach flouts the principle that anyone has the right to seek asylum, treating all North Korean escapees as illegal immigrants. If anything, this is backward, and all North Koreans who escape to China should be understood to be at risk. The 2014 UN Commission of Inquiry on human rights in North Korea was clear: The forcible repatriation of thousands of North Koreans subjects them to crimes against humanity. Just being a North Korean in China means an individual would be in grave peril if sent back to North Korea. The UN Commission of Inquiry was equally clear about that: China’s approach violates the international principle of non-refoulement, which is supposed to guarantee that nobody will be repatriated to a country where they would face torture; cruel, inhuman, or degrading punishment; and other irreparable harm. Irreparable harm is what awaits the vulnerable North Koreans that Chinese authorities plan to send back to the gulag.

Though much has not changed on this topic over the last two decades, we’re holding this hearing because of what has changed. COVID-19 changed much in our world, and the landscape of North Korean defection is no different. Border closures and tougher travel restrictions on both sides of North Korea’s border with China made defection more difficult and more expensive. Now, the potential easing of North Korea’s border closures raises the specter that China will again start forcibly

repatriating North Koreans. The other thing that has changed is the same thing we observe in so many other contexts: China's Orwellian surveillance state supercharges its ability to keep an eye on the people it seeks to control, including North Korean refugees. Vulnerable people facing either repatriation or hiding now face a much more difficult task in remaining hidden or in receiving help without catching the attention of authorities who wish them ill.

This all leaves a bleak situation for North Korean refugees in China, but those of us fighting for human rights should not shy away from the challenge and instead must double our efforts. I look forward to our witnesses' counsel on what we can do, and just on a personal note, I traveled to South Korea and to the China/North Korea border where the three highways exist a few years ago. In South Korea I met with refugees, some of whom had swum across the border, some of whom had crossed the land border to China, some who had come through the Demilitarized Zone. I'll never forget one young woman who had escaped only to be returned as a teenager with her father. He faced horrific punishment. She faced less harsh punishment but still a very difficult course. He encouraged her to escape again, knowing what would happen to his family; she actually did succeed, and I think about that father trying to get his daughter to freedom knowing the torture that he would be facing. We're going to be hearing from you all as experts and I'm so glad you've come to share your knowledge, your experiences. Thank you.

PREPARED STATEMENT OF HON. JAMES P. MCGOVERN

Good morning. I join my colleagues in welcoming those present to today's hearing on the risk of refoulement of North Korean refugees to China, in contravention of international law. I regret that I am unable to join you in person.

The mandate of this Commission is to examine grave human rights violations committed by the People's Republic of China against its own people. But today we are focused on potential rights violations the Chinese state may commit against citizens of the Democratic People's Republic of Korea, also known as North Korea. The concern is that as North Korea relaxes its COVID-era border restrictions, the PRC may begin to deport back to the DPRK North Koreans who entered China without proper documents, where they could be severely punished, tortured or even killed.

Every country has requirements in place to control who can enter its territory. If someone crosses an international border without having the required documents in hand, usually a passport and visa or work permit, and they are caught, they may face sanctions, including deportation. Anyone who enters a country without going through regular channels may face this risk, unless they are seeking asylum.

An asylum seeker is a person who has left their country and is seeking protection from persecution and serious human rights violations in another country, but who hasn't yet been legally recognized as a refugee. Asking for asylum is a human right, and governments are obligated under international law to evaluate the situation of each person who requests it.

The issue is that the PRC routinely labels all North Koreans who are in its territory without proper documents as "illegal economic migrants." As we will hear today, many, maybe even most, may be economic migrants. But there's no way to know for sure without looking at each person's case. To not allow people from North Korea, a country that is infamous for the severity of the human rights abuses it commits, to be considered for asylum, is a human rights violation.

But even if all the North Koreans in China were "illegal economic migrants," under international law, the PRC may not repatriate them to the DPRK. As a state party to the 1951 Refugee Convention, its 1967 Protocol, and the UN Convention against Torture, the PRC may not forcibly return North Koreans if they would be at risk of persecution or torture upon return. As you will hear today, the North Korean authorities have criminalized departure from the country without permission and there are many credible reports of the serious mistreatment to which returnees are subjected. For the PRC to forcibly return people to the DPRK, knowingly placing their well-being and even their lives at risk, violates human rights as well as basic principles of human decency.

This problem is not new. The same alarm was raised when news broke of the detention and possible deportation of North Koreans by the PRC in 2017 and in 2021. As we will also hear today, the problem is not limited to China; Russia engages in the same practice. So what can be done?

First, the Senate can approve the Administration's nomination of Julie Turner to serve as Special Envoy on North Korean Human Rights Issues, a position that was vacant throughout the Trump Administration. I was glad to see that Ms. Turner's nomination was placed on the Senate calendar on June 1.

Second, according to the information that is available to us, many North Koreans who enter China without documents are seeking to transit through to other countries. The U.S. should encourage the PRC to either provide them asylum or give them safe passage to South Korea or another safe third country.

Third, the option for North Korean refugees to resettle in the United States should remain available. Even though the numbers are small, the door must remain open.

Fourth, the Administration should continue to encourage and support the International Red Cross and the UN refugee agency in their efforts to track what is happening to North Koreans in China, Russia, and elsewhere, and to persuade governments to never forcibly return them to the DPRK.

I expect today's witnesses will have additional recommendations. I am especially interested in how to protect the well-being of the North Koreans who are victims of this situation—unable to survive in their country of birth, and unable to reach safety. They should be the focus of our concern.

Finally, as a strong believer in the human right to food, I thank Jung-Hoon Lee, one of today's witnesses, for recognizing that "The right to food is one of the most fundamental human rights ensured under the existing international laws. Denial of food, especially as a weapon of persecution, can therefore substantiate a claim to refugee status by those denied."

Thank you.

SUBMISSIONS FOR THE RECORD

STATEMENT OF JOANNA HOSANIAK

Honorable Chairs and members of the Congressional-Executive Commission on China, Citizens' Alliance for North Korean Human Rights would like to thank the Commission for the opportunity to submit this written statement. In consideration of the issue of forced repatriation of North Korean refugees from China, it is important to consider the often-overlooked economic and trade relations of China with the Democratic People's Republic of Korea (DPRK/North Korea) and how policies of refoulement of refugees by China benefit Chinese companies and both states.

The Chinese government's classification of North Korean refugees as illegal economic migrants, and their deportation to DPRK to face extreme punishment, prevents North Koreans (a majority women and girls) from accessing necessary resources, such as administrative or legal procedures, to legalize their status in China under domestic or international law. They are vulnerable to deportation back to North Korea, even in cases where they are victims of trafficking or qualify as refugees. Those who are deported face a range of harsh punishments, including lengthy prison terms, torture, and forced labor in detention.

It is often argued that China is pursuing such policies to maintain political ties with North Korea, and to prevent destabilizing the regime. However, looking from the economic perspective, the continued repatriation of North Korean refugees from China provides an unimpeded supply of free forced labor for North Korea's detention centers, which often produce products for China-based companies at significantly lower cost. This is extremely concerning as it suggests that Chinese businesses are profiting from the abuse of North Korean refugees. As such, the Citizens' Alliance for North Korean Human Rights would like to request that the Commission look into this intricate supply chain and business connections between China and North Korea and how they affect abuses faced by the North Korean refugees.

1. CRIMES AGAINST HUMANITY IN NORTH KOREAN SUPPLY CHAIN
AND CONNECTION TO THE REFUGEE ISSUE

The Citizens' Alliance's years-long ongoing investigation into the role of the North Korean regime's top structures in export linked to large-scale human rights abuses (Report: "Blood Coal Export from North Korea") has revealed that the DPRK sustains its economic system through a coercive quota system, which requires civilians to submit quotas of goods for the export of minerals, agricultural and livestock products, metal, construction materials, etc. This pyramid of extortion is enforced through each Ministry and Party organ and is imposed on every citizen throughout society.

The quotas of goods are also fulfilled using forced labor and slavery in detention centers. In particular, detained populations produce the top commodities for export, which are often the target of the most restrictive international sanctions, such as coal and minerals. Our investigative findings indicate that production in detention centers is based on intergenerational discrimination based on the *songbun* system, which determines which citizens will replenish the slave labor force in the infamous prison system. North Koreans deported from China, most of whom are women, are held in detention facilities that sustain themselves and provide revenue for the regime through forcing labor upon detainees. The lower the *songbun*, the more vulnerable a deported North Korean is to harsher work and life conditions in detention.

The hunting system for prisoners and slave labor is enforced by the Ministry of State Security (MSS/secret police) which, together with the Ministry of People's Safety (MPS/police) and Korea People's Army (KPA), sits under the current leader in the State Affairs Commission—the top organ of the State. The law enforcement ministries have numerous subsidiaries that are corporations trading in the production obtained through slave labor in detention centers. These companies have their intermediaries operating in China to supply their products to China-based businesses.

The MSS is the primary investigative authority dealing with persons deported from China who have crossed the border with the aim of finding work or seeking asylum in third countries, or as victims of trafficking.

Former MSS Officers and prosecutors from North Korea reported during Citizens' Alliance's investigation that the seriousness of crimes is evaluated based on the discriminatory *songbun* classification, using biased information unverified by an independent court. Furthermore, these insiders reported that women repatriated from China should consider themselves "lucky" to be released from pre-trial detention to

police custody where they faced trial and subsequent detention in a *kyohwaso* prison (long-term correctional prison with forced labor) operated by MPS or police. This is because it is the MSS, not any independent decision-maker or court, that decides at the pre-trial secret investigation stage, which women will remain in MSS custody, with the risk of being sent to an MSS political prison camp from which a release is unlikely, and which women will be handed over to MPS custody to face trial and sentence in an MPS-operated detention facility.

Women interviewed after 2012 also reported an increase in the punishment for border crossing; five years in a *kyohwaso* prison on average for illegal border crossing. This reflects reported legislative amendments to North Korean criminal law and should be viewed and further analyzed through the lens of the quota system of production in detention centers, which forms a vicious cycle of hunting for free forced labor. Women have always been, and continue to be, the primary victims of this cycle. In this way, the MSS is providing a constant supply of slave labor.

2. PRODUCTION “MADE IN CHINA” IN NORTH KOREAN DETENTIONS

Similar to political prison camps operated mostly by MSS, the *kyohwaso* prisons operated by MPS are also major sites of production (mining, lumbering, farming, production of goods). Women repatriated from China who served sentences in those prisons have been reporting for more than a decade that some *kyohwaso* prisons have been operating large wards for women deported from China where women produced textiles, wigs, or fake eyelashes labeled “Made in China”.

In recent years the data provided from the General Administration of Customs in China disclosed the increasing import of such beauty products from North Korea to China. According to NK Pro, Chinese import of wigs or eyelashes from North Korea jumped from 37 metric tons in December 2022 to 121 metric tons in April 2023 and constituted 71 percent of China’s overall trade with North Korea. According to a Radio Free Asia report from 2021, a 20-kilogram (44-pound) box of raw materials for wig manufacturing costs 7,000 yuan (about U.S. \$1,100), but the finished products made from those materials can earn a profit of more than 30,000 yuan (about \$4,600). While some of these products have been stockpiled due to closed borders with China during the pandemic, this type of product constitutes substantial earnings for the North Korean regime (valued at \$22.6 million in April) and Chinese companies.

Reports indicate at least 1,000 prisoners in Chinese prisons are awaiting deportation to North Korea because of the closed border. Given high production in North Korean detention centers for Chinese companies, the reopening of borders will cause a surge in deportations from China that will only exacerbate grave human rights violations and labor exploitation used for the benefit of Chinese companies.

3. CONCLUSION

This statement provides a general overview of the worrying situation of forced repatriation of North Korean refugees from China to North Korea, which is accompanied by their forced labor in detention facilities in North Korea. These detention facilities are used to supply products for Chinese companies, leading to a cycle of exploitation and human rights abuses.

It is clear that further action must be taken in order to combat this issue, including pressuring Chinese officials into ceasing all forms of forced repatriation and enforcing stricter regulations regarding businesses engaging in unethical practices within their borders. Ultimately, it is the responsibility of the importer to ensure that their products have not been produced using forced labor.

For this reason, U.S. Customs and Border Protection has issued a notice of enforcement guidance for companies importing goods from North Korea and China. Currently, cosmetic and beauty products such as wigs or eyelashes that are produced also in North Korean detention facilities are not listed on the sanctions lists. But even if they are included in the future, it is not preventing Chinese companies from maintaining business relations with North Korean companies and benefiting from the trade. Due to the lack of transparency on the Chinese side, U.S. authorities should adopt in the North Korean case a similar approach to its position on Chinese production in Xinjiang.

There is a high probability that a portion of products originating from North Korea but produced for Chinese companies has been made in prisons detaining repatriated North Korean refugees from China using forced labor and other human rights violations, in some cases amounting to crimes against humanity. All products sold by Chinese companies, especially those registered in Jilin Province bordering North Korea, can therefore be assumed to have used forced labor unless due diligence can prove otherwise. Such products should be restricted from international ex-

port, given that free, unrestricted export enables supply extracted from detained North Koreans to flow through Chinese companies.

Accordingly, Congress needs to consider expanding the existing sanctions regime to require exporters of products reported as originating from China's border regions with North Korea to demonstrate that they did not entail prison labor or slave labor from North Korea. By creating such a presumption and shifting the burden of proof from U.S. authorities to Chinese exporters, the latter would have a strong incentive to root out prison labor or slave labor from their supply chain.

Our organization also calls upon the United States to raise issues and make recommendations concerning China's policy of forcible deportation for North Korean refugees and the exploitation of North Korea's prison labor at China's fourth Universal Periodic Review (UPR) which is scheduled to take place in January or February 2024. It would be helpful to also call for China to disclose the number of North Koreans arrested and forcibly repatriated or waiting in detention to be repatriated each year.

It is also necessary for governments to consider updating and strengthening the UN's accountability work for North Korea's crimes against humanity, including China's responsibility, taking into consideration the accountability mechanisms for Syria and Myanmar created by the UN in 2016 and 2018 respectively, to prepare case files for future judicial process.

Third countries like Mongolia, Vietnam, and Laos where many North Korean escapees in China are heading to in search of freedom must also be compelled to respect the principle of non-refoulement and give them free passage to South Korea or other countries where they want to resettle.

Your consideration of these matters and solutions is very much appreciated.

STATEMENT OF GREG SCARLATOIU

The witness wishes to thank the Congressional-Executive Commission on China for the invitation to submit this written testimony. The witness wishes to thank and credit HRNK's team for the thorough, tireless, and effective work invested into this report, especially Ingyu Choe, Raymond Ha, Rick Hessevoort, Doohyun Kim, Elizabeth J. Kim, Kaylee Kim, Daniel McDowall, and Isabella Packowski. The witness also wishes to thank the North Korean escapees and human rights leaders who answered the questionnaire designed in support of this report, including Ji Seong-ho, Jung Gwang-il, Kang Cheol-hwan, Lee So-yeon, Lee Hyun-seung, Ko Young-hwan, Kim Ji-eun, Phillip Lee, Kim Sung-eun, and many others who chose to remain anonymous.

THE ISSUE

North Koreans who manage to escape Kim Jong-un's oppressive, totalitarian regime often first flee to China, where they have no protected legal status or opportunity to seek asylum. As a result, North Koreans seldom find safety in China and are highly vulnerable, living under the constant threat of deportation to North Korea. North Korean escapees face serious hardships and challenges in China. They are victims of human rights violations committed by the Chinese Communist Party (CCP) and by Chinese individuals. The status of North Koreans in China has decidedly worsened under COVID. HRNK is currently assessing how the human security and human rights of North Koreans have been affected by restrictions imposed under the pretext of COVID prevention, including that of North Koreans who are trapped in China.

LIVING CONDITIONS

Living conditions for North Koreans in China are appalling. In addition to these harsh conditions, North Koreans are vulnerable to physical, emotional, and sexual exploitation.¹ For the most part, North Korean refugees hide in isolated refuges, which may come in the form of hidden rooms in cities like Yanji or isolated rural settlements in the mountains. These shelters are often of very low quality, lacking proper sanitation and running water. The only facility available is the *kang*, a "raised platform heated by underfloor pipes upon which the Korean household sleeps, eats, and spends any leisure time."² The situation is so poor that one indi-

¹ Hazel Smith, "North Koreans in China: Defining the Problems and Offering Some Solutions," *Research Paper for the Center for East Asian Studies* (2005): 124.

² *Ibid.*, 125.

vidual, in a letter to the UN, stated that “we North Korean refugees in China [...] live worse than dogs in a mountain hut.”³

This lifestyle is very turbulent and insecure. Scholars like Andrei Lankov have described it as a “hybrid of shuttle trading, smuggling, and fugitive status,” as these people live under the constant fear of being caught by either the Chinese or North Korean authorities.⁴ Their condition is “akin to indentured servitude,” given the extreme dependence of North Korean refugees on their employers for all aspects of life.⁵

Finding work is paramount to their survival. North Korean refugees may find work in remote mountainous farming areas. They may provide other forms of casual or unskilled labor, such as becoming waiters, dishwashers, construction workers, or maids.⁶ The remuneration which refugees receive for their work is abysmal. As a result of the North Koreans’ “illegal” status in China, their wages are far below that of the locals. There are structural barriers to filing complaints about working conditions due to the absence of legal protections.⁷

NORTH KOREAN WOMEN IN CHINA

Women represent the majority of North Koreans who escape to China. North Koreans flee into China for different reasons, many desperate to escape the oppression under the Kim regime and seeking economic survival. North Korean women and girls are often lured to China by human traffickers under the premise of finding work. As a result, many are sold as “brides” to rural Chinese men or forced into prostitution or online sex work. Based on HRNK’s interviews with escapees, many are subject to exploitation and abuse. Because China considers North Korean refugees to be “illegal economic migrants,” these women and girls are even more vulnerable to abuse. They can be turned over to the authorities, arrested, and refouled despite a credible fear of persecution by the North Korean authorities. Those who are repatriated are subject to torture and inhumane treatment at detention facilities in North Korea. North Korean women suspected of having become pregnant with Chinese men even suffer forced abortions and infanticide.

Women and girls face abject conditions in China’s “Red Zone,” a region in China in which authorities hunt refugees to send back to North Korea. Although the numbers are still disputed, it is estimated that up to 500,000 female North Koreans, some as young as 12, hide in this region. They are subjected to systematic rape, sexual slavery, forced marriage, unwanted pregnancy, forced labor, and cybersex trafficking. This mistreatment has become normalized within the region. Additionally, the COVID pandemic and associated lockdown measures have made movement much more difficult for these individuals. As many as 80% of female North Korean refugees fall into the hands of human traffickers and are sold into the sex trade, which is estimated to generate more than \$105 million a year for Chinese and North Korean organized crime networks.⁸

NORTH KOREAN CHILDREN IN CHINA

Children are another vulnerable group of North Koreans living in China. This includes children who have traveled with their families, children of “mixed” marriages, and orphans. More recently, there has been a growing prevalence of stateless children in China, born outside of North Korea but not in possession of Chinese citizenship. Life for these children is extremely arduous. For the most part, they remain indoors to avoid detection. Because very few of these North Korean children speak Chinese, this increases the risk of detection and creates barriers to accessing education.⁹ Some live in shelters provided by humanitarian organizations or churches and receive basic schooling.¹⁰ Not all children are so fortunate, and only a handful have access to even this very basic form of education.

A significant number of children are orphans and cross the border in groups. These are almost always boys aged between 12 and 18. Groups are generally made

³ Ibid.

⁴ Andrei Lankov, “North Korean Refugees in Northeast China,” *Asian Survey* 44, no. 6 (2004): 871.

⁵ Joel Charny, “North Koreans in China: A Human Rights Analysis,” *International Journal of Korean Unification Studies* 13, no. 2 (2004): 83; Smith, 125.

⁶ Smith, 125; Lankov, 862.

⁷ Smith, 125.

⁸ Julian Ryall, “North Korean girls exploited in China’s ‘Red Zone.’” *Deutsche Welle*, Mar 27, 2023. <https://www.dw.com/en/north-korean-girls-exploited-in-chinas-red-zone-report/a-65137209>.

⁹ Ibid.

¹⁰ Ibid., 126.

of up of 10 to 15 people, but can sometimes be as large as 30.¹¹ These children are known as *kkotjebi* (“fluttering swallows”) and could often be seen wandering the streets in cities like Yanji during the famine of the 1990s.¹² The area in which these orphan groups can be found is enormous. While most live in the northeastern region of China, some go as far as Beijing or to the provinces further south. Some even go to Vietnam, Cambodia, Myanmar, and Thailand.¹³ Having initially crossed the border, these groups may work for loggers in exchange for shelter and meet up with other North Korean children once they reach a city. Frequently, they beg from South Korean tourists, though this is particularly risky because they become easy targets to spot as a result of their ragged clothing.¹⁴ Additionally, the general health of these orphans sets them apart. Chung Byung-ho discusses how “many of them have visible signs of malnutrition in their faces and bodies, and most are very short for their age. Many are also afflicted with various skin diseases.”¹⁵ In extreme cases, a 16-year-old boy may be just 132 centimeters tall, or an 18-year-old may speak with a voice that has not broken yet. In terms of housing, these orphans will live in secret shelters.¹⁶

As a result of the severe famine of the 1990s in North Korea, a new group of young people has emerged—stateless children. Having been born outside of North Korea, they do not have legal status there. They cannot legally reside in China, and they are not eligible for Chinese citizenship. Additionally, as marriages between North Koreans and Chinese citizens are illegal, these refugees are similarly not afforded Chinese citizenship, and therefore are denied basic rights such as health, education, or welfare.¹⁷

RECENT DEVELOPMENTS AND CHINA’S INTERNATIONAL LEGAL OBLIGATIONS

With the gradual loosening of border restrictions and easing pandemic prevention measures, North Korean escapees are at great risk of being forcibly repatriated to North Korea. According to UN Special Rapporteur Elizabeth Salmón, if repatriated, these escapees risk being sent to a *kwan-li-so*, where they will be subjected to a myriad of human rights abuses, including torture.¹⁸ As of October 2022, the UN estimated that there were as many as 2,000 North Koreans currently detained by Chinese authorities as illegal migrants, at risk of being forcibly returned to North Korea.¹⁹

Pursuant to its international legal obligations under the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China must recognize North Korean nationals fleeing persecution in their homeland as *refugees sur place*, precisely because they face a credible fear of persecution upon refoulement. Both China and North Korea are in violation of international law and basic human rights and should be held accountable. In the aftermath of the COVID pandemic, North Koreans in China are even more vulnerable. They remain in hiding without access to adequate healthcare, or they have been detained by Chinese police as they await North Korea’s border reopening.

Special Rapporteur Salmón has called on China to not repatriate the North Korean escapees once border restrictions are lifted. However, in response to Special Rapporteur Salmón’s comments at the UN Human Rights Council in March, China stated that “those North Koreans who have entered China illegally are not refugees,” and that China “attaches great importance to protecting the legal rights of foreign nationals in China, and to suppressing trafficking in women and children.” However, the escapees’ legal status is irrelevant. Under international law, according to Special Rapporteur Salmón, if people are deported to face persecution, torture, or other serious human rights violations, then “these states are prohibited from transferring or removing individuals from their jurisdiction to a place where these awful things may happen.”²⁰ These concerns were most recently reiterated during

¹¹ Chung Byung-ho, “Living Dangerously in Two Worlds: The Risks and Tactics of North Korean Refugee Children in China,” *Korea Journal* 43, no. 3 (2003): 199.

¹² *Ibid.*; Smith, 125.

¹³ Chung, 194.

¹⁴ *Ibid.*, 202.

¹⁵ Chung, 203.

¹⁶ *Ibid.*, 205.

¹⁷ Smith, 126; Charny, 87.

¹⁸ Anthony Kuhn, “North Korean defectors in China face deportation as COVID border controls ease,” *NPR*, April 25, 2023. <https://www.npr.org/2023/04/25/1169464713/north-korea-defectors-deportation-china>.

¹⁹ UN Office of the High Commissioner for Human Rights, “Report of the UN Special Rapporteur on the situation of human rights in the DPRK to the General Assembly, 2022.” <https://seoul.ohchr.org/en/node/495>.

²⁰ Kuhn, “North Korea defectors in China face deportation.”

the UN Committee on the Elimination of Discrimination Against Women (CEDAW)'s 85th session in Geneva in May. The committee raised concerns about the forced deportation of North Koreans in China and the (lack of) legal protection, particularly North Korean women and their children. Beijing reiterated its stance that North Korean women come to China for “economic reasons” and therefore do not qualify for legal protection. According to Chinese authorities, North Koreans engaging in illegal activities will be “sent back to their country.”²¹

ESTIMATES OF THE NORTH KOREAN POPULATION IN CHINA

Due to COVID-related restrictions in both North Korea and China, it has become even more difficult than before to assess the approximate number of North Koreans in China. The sources contacted for this report provided a wide range of estimates regarding the North Korean refugee population in China, ranging from as few as 5,000 to as many as 250,000. This reflects the difficulty of obtaining accurate estimates due to the refugees' precarious status in China. Ms. Kim Ji-eun, a Seoul-based reporter for *Radio Free Asia*, derived an estimate of 100,000 to 200,000 based on her experience with WeChat groups (*quan*) formed by North Korean refugees in China to exchange information. Each group typically has between 300 to 600 members, and she estimates that there are dozens, if not hundreds, of such chat groups.

There are also a variety of estimates regarding the number of officially dispatched North Korean workers in China. Nevertheless, multiple sources report that most of these workers are in the three northeastern provinces of Jilin, Liaoning, and Heilongjiang.

According to ROK National Assemblyman Ji Seong-ho of the People Power Party, the ROK government estimated that there were 50,000 North Korean workers in China prior to the onset of the COVID pandemic. While this number has likely fallen due to restrictions on overseas workers placed by UN Security Council resolutions 2375 and 2397, he added that most of these workers have likely remained in China after the expiration of their visa.

Ms. Kim Ji-eun estimated that there are between 120,000 and 150,000 North Korean workers in China who have not been able to return due to COVID-related border restrictions. According to a source in Dandong, around one year into the COVID pandemic, the DPRK consulate in Dandong gathered the passports of all North Korean workers dispatched to the region to extend their visas. During this process, it was revealed that there were 100,000 North Korean workers in Dandong. Ms. Kim added that there are also industrial parks in Yanji, Changchun, and nearby areas that host between 5,000 and 6,000 North Korean workers. The highest estimate came from an individual involved in rescuing North Korean refugees, who put the number of officially dispatched North Korean workers in China at 500,000.

There was a narrower range of estimates regarding the number of North Koreans who are currently held in detention by Chinese authorities, ranging from around 100 to 3,000. Assemblyman Ji Seong-ho reported that there are at least 1,300 in detention, mostly in the three northeastern provinces. Pastor Kim Sung-eun of the Caleb Mission gave a similar estimate of 1,200 North Korean escapees who were arrested during the COVID pandemic and are currently being held in detention facilities operated by China's border security forces, located along the Sino-North Korean border. A former North Korean overseas worker stated that the Chinese police appear to have been carrying out more frequent arrests of North Korean refugees recently.

Some information is also available about the number of North Korean escapees being held at specific facilities. Mr. Kang Chol-hwan of the North Korea Strategy Center noted that there are at least 500 held in detention facilities across China, including those in Beijing, Dandong, and Shenyang. This includes officially dispatched workers and North Korean officials who were caught while trying to escape. Mr. Kang specifically noted that 280 are held at a police detention facility in Shanghai. Mr. Jung Gwang-il of No Chain stated that 300 are held at the border holding facility in Tumen, and another 300 at a jail in Yanji. According to escapee testimony received last month by Ms. Lee So-yeon of the New Korea Women's Union, 400 North Korean refugees are being detained at a border police station in Jilin Province, awaiting repatriation to North Korea.

Ms. Kim Ji-eun, who estimated that there are between 500 and 1,000 North Koreans in detention in China, stated that these individuals would likely be repatriated to North Korea once border restrictions are lifted. A representative of an organiza-

²¹ Ifang Bremer, “UN committee questions China about forced deportation of North Korean women,” *NK News*, May 16, 2023. <https://www.nknews.org/2023/05/un-committee-questions-china-about-forced-deportation-of-north-korean-women/>.

tion involved in rescuing North Korean refugees put the number of detainees at 3,000, but also reported that these individuals are awaiting repatriation. A former North Korean overseas worker noted that when these refugees are repatriated, North Korea's Ministry of State Security officers are likely to impose harsher punishments than before and extort the detainees more severely, as no refugees have been repatriated in the past 2 to 3 years due to COVID.

NEW TRENDS AND DEVELOPMENTS

The sources contacted for this report provided noteworthy information about recent developments in the situation of dispatched North Korean workers and North Korean refugees in China.

Assemblyman Ji Seong-ho, based on testimony from North Korean escapees who have recently arrived in South Korea, noted that North Korea appears to be sending workers overseas under the guise of sending students or military personnel. He noted that this practice merits further investigation.

Ms. Kim Ji-eun also stated that the North Korean and Chinese authorities have made secret arrangements to send North Korean workers across the border. These workers, mostly women between 19 and 30 years old, are selected from the border areas and quietly taken across the border at night by bus. They do not have passports, and they do not go through customs when crossing the border.

Pastor Kim Sung-eun stated that last year, he saw a large industrial park being built at the North Korea-China Free Trade Zone in Tumen, Jilin Province. Some North Korean workers had already arrived at this site. Others at the site said that more workers were expected to be sent there from North Korea. The Chinese government has a perception that North Korean workers are meticulous, skilled workers who are cheaper to employ than Chinese workers.

Mr. Jung Gwang-il drew attention to the dire situation of North Korean workers in China who could not return home due to COVID-related restrictions. These workers, mostly young women who worked at sewing factories, were out of work once their initial contract expired. The economic slowdown in China due to COVID only added to their troubles. These workers were "sold" by local brokers to carry out various kinds of short-term work, and some of these North Korean women resorted to working at local restaurants. Many suffer from malnutrition, with some resorting to collecting and boiling vegetables that were thrown away at local markets. Mr. Jung added that some of these women have reportedly committed suicide, as they could not send enough money back home to repay the bribe they gave to be sent overseas.

Ms. Kim Ji-eun added that if North Korean workers fall ill while in China, they pay out of pocket for medical treatment. Official representatives of North Korean companies sometimes provide an interpreter if someone must go to the hospital, but they do not provide additional assistance. If a North Korean worker is seriously ill and admitted to a hospital, Chinese doctors and nurses are forbidden from speaking directly to such patients. In these instances, the North Korean worker is essentially left to die.

Lastly, Mr. Jung Gwang-il reported that some local authorities are allowing female North Korean refugees to remain in China. Specifically, in rural areas of Heilongjiang Province, North Korean women who have married Chinese men and have given birth to two or more children are issued temporary identification papers by local officials. These children are also officially registered in the *hukou* system. This practice reportedly stems from the recognition that the father will face difficulties in raising the children alone if the North Korean mother is forcibly repatriated.

CONSEQUENCES OF REPATRIATION

There was broad agreement among multiple sources regarding the consequences of forcible repatriation for North Korean refugees. Refugees who are judged to have crossed the border for economic reasons are sentenced to time at a mobile labor brigade (*ro-dong-dan-ryeon-dae*) or a long-term prison-labor facility (*kyo-hwa-so*). In these instances, detainees can use bribes or rely on connections to reduce their sentence. Assemblyman Ji Seong-ho noted that the minimum sentence is 6 months at a *kyo-hwa-so*, and Ms. Kim Ji-eun noted that the sentence can range from 5 to 15 years at a *kyo-hwa-so*. Ms. Kim added that 90% of all forcibly repatriated North Korean refugees eventually die after their return, since conditions at the *kyo-hwa-so* are extremely harsh. An escapee who left North Korea in 2019 reported that the punishment for repatriated refugees depends on how long the refugee has stayed in China. Another North Korean escapee who spent almost 20 years in China added that the punishment is more severe for those who have spent more time in China. This witness further noted, however, that it is possible for North Korean refugees

to use bribes and connections to be released from detention from local and municipal authorities while in China.

North Korean refugees who attempted to escape to South Korea or encountered Christianity during their escape attempt are punished severely. These individuals are sentenced to death or sent to political prison camps (*kwan-li-so*). Mr. Kang Chol-hwan noted that since 2014, all North Korean refugees who have been forcibly repatriated are sent to *kwan-li-so*.

North Korean workers who were officially dispatched overseas are subject to investigation upon return. Assemblyman Ji Seong-ho noted that officially dispatched workers who encountered South Koreans, Americans, or other Westerners or watched unauthorized content (e.g., YouTube) while overseas are investigated by the Ministry of State Security or the Overseas Workers' Bureau. Any workers who are found to have engaged in such conduct are immediately returned to North Korea. He added that the punishment depends on the seriousness of the violation, and that such individuals are unlikely to be sent overseas again. Mr. Ko Young-hwan, a policy advisor to the ROK Ministry of National Defense, stated that workers who have encountered a South Korean citizen (or missionary) while overseas are sentenced to 1 to 5 years at a *kyo-hwa-so*.

Ms. Kim Ji-eun provided a similar account. Korean Workers' Party (KWP) authorities or security agencies (Ministry of Social Safety, Ministry of State Security) conduct a preliminary investigation of workers who have returned to North Korea. Workers must confess and declare any infractions they committed during their time overseas. If they are discovered trying to hide such violations, they are subject to further investigation by security agencies, where they may be detained during interrogation. They may be able to avoid punishment by paying a bribe, but this bribe may be so large that they must pay almost all the money they earned and retained while overseas.

Multiple sources confirmed that officially dispatched workers who are caught while trying to escape while overseas are treated no differently from North Korean refugees who are caught in China during escape attempts. After being forcibly repatriated, they are given, at minimum, a life sentence and may be sentenced to death. Mr. Phillip Lee of Unification Hope Mission noted that 10% to 20% of North Korean escapees were originally officially dispatched workers.

If an officially dispatched worker escapes while overseas, there are consequences for the worker's family members back home in North Korea. This applies not only to officially dispatched workers, but also to other North Korean refugees who have escaped. Assemblyman Ji Seong-ho stated that due to an increase in the number of escapees over the years, it is now difficult for the North Korean authorities to punish the remaining family members of all escapees. Nevertheless, these family members are subject to close surveillance by the Ministry of State Security, and they are forbidden from holding key official positions in North Korea. A North Korean escapee who arrived in South Korea in 2020 stated that remaining family members would be under "severe surveillance." Mr. Phillip Lee also noted that remaining family members will not be able to join the KWP or attend college.

Other sources also reported that remaining family members are typically banished to remote areas of North Korea. Ms. Kim Ji-eun noted that this is to make it difficult for the escapee to establish contact with remaining family members. She added that the remaining family members will be completely ostracized by others in North Korea.

POLICY RECOMMENDATIONS

Further research and documentation are needed to clarify the number, status, and humanitarian situation of North Korean refugees and officially dispatched workers currently trapped in China.

China must be persuaded to cease and desist its policy of refouling North Korean refugees, under the pretext that they are "illegal economic migrants." This is a direct and blatant violation of China's obligations under the 1951 UN Refugee Convention and the 1967 Additional Protocol.

Both the U.S. Government and U.S. civil society must urgently seek ways to reach out to the North Koreans trapped in China and educate them on the path to seeking asylum in the United States.

North Korean refugee protection and rescue must become a pillar of U.S. North Korea human rights policy, in accordance with the letter and the spirit of the U.S. North Korean Human Rights Act.

In order to provide the resources necessary for North Korean refugee protection and rescue, the North Korean Human Rights Act, which expired in September 2022, must be reauthorized.

**Congressional Executive Commission on China Hearing on
The North Korean Refugees Detained in China
June 13, 2023 10 am
Testimony Submission from Suzanne Scholte
Seoul Peace Prize Laureate
Chair, North Korea Freedom Coalition**

Thank you for the opportunity to submit testimony about the ongoing crisis of the North Korean refugees in China. I am grateful for the Congressional- Executive Commission on China for focusing attention once again on this issue and its urgency today. The CECC was among the first to bring awareness in the U.S. Congress of the ongoing horrific treatment by the People's Republic of China of these refugees. They began illegally entering China in the mid-1990's to escape starvation during the Arduous March, the Great Famine, in North Korea. At the time, China determined they were "economic" migrants, not refugees, as they escaped for food, not for freedom. But, the moment a North Korean leaves their country, they become a *refugee sur place* as they have a well-founded fear of persecution if they are forced back into North Korea. China knows full well that the thousands of children, women, and men they have forcefully repatriated to North Korea since the 1990s have been subjected to horrific torture, inhuman imprisonment, and even public execution.

Now, the refugees today in China detention centers are in a unique situation because they have been literally trapped in China since North Korea became one of the first countries to shut down its border on January 22, 2020, in response to the COVID pandemic. Kim Jong Un further sealed the border in March, 2020, by issuing a shoot to kill order in a 2-kilometer buffer zone (over a mile wide), where border guards and swat teams patrol. They are instructed to shoot to kill anything that moves, whether a child, a young woman or an animal. A dramatic illustration of this policy for all the world to see of the Kim regime's cruelty and total disregard for human life was their treatment of a South Korean maritime official who approached their sea border in September 2020. He was shot to death by North Korean border guards and his body burned.

There are credible rumors that the North Korea/China border will reopen soon because North Korea, which is facing more starvation reminiscent of the Arduous March, must increase exports to, and imports from, China. While there is no way that Kim Jong Un can allow the North Korea border to fully reopen, trading routes will reopen soon between China and the border cities of Sinuiji and Hoeryong in North Korea. The terrifying fear for all of us human rights advocates is that China's first export to North Korea will be the nearly 2000 North Korean children, women and men currently detained, at least half of whom are believed to have been attempting to reach South Korea.

What is of particular concern about this group is the only way they could have escaped during the COVID pandemic, across this dangerous border, is they had resources. This means they were either Korean Workers Party members of a stature to obtain the financing to pay brokers and bribes for their escape OR had their escape financed by family members in South Korea. This subjects them all to horrific torture and public execution upon forceful repatriation, as it is a crime punishable by death for North Koreans to seek resettlement in South Korea.

Thus, the international community must appeal to Xi Jinping to honor his international treaty obligations, specifically the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, and the Convention Against Torture.

The United States and the international community must announce NOW that it will sanction any Chinese official involved in the forceful repatriation of any North Koreans back to North Korea, pointing out they will also be pursued in international court for being complicit in murder, if these fears are, indeed, realized.

The Republic of Korea must continue to remind China that these North Korean refugees are, in fact, citizens of the Republic of Korea under its constitution. There is no reason for them to be a burden on China. In fact, South Korea successfully rescued a family of four who were flown, in November 2021, directly from China to South Korea during the Moon Jae-in administration, an administration that was more hostile to North Korean refugees than any other in South Korea's history.

If Moon can do that, we are certain Yoon can do it! But President Yoon Suk Yeol needs all of our help to save the rest as ultimately the final decision rests with Xi Jinping. Thus, the international community must press him to act according to China's treaty obligations. My



recommendation to the Yoon administration is to send a plane to China and bring those North Koreans to South Korea, especially remembering that it was the North Koreans living in freedom in South Korea that gave him his margin of victory in the last election.

On a hopeful note, I include this photo from the family that escaped North Korea during the pandemic, got arrested, shackled, and imprisoned in China. But in November 2021, they were flown by plane in a miraculous answer to prayer directly from China to South Korea. This is my closing evidence to show it is possible that all can be saved. We just need more plane tickets!

Finally, I also ask for everyone's continued prayers for these North Korean refugees. I quote from the mother of this family who sent me her testimony for the Tom Lantos Human Rights Commission hearing last June. She wrote: *November 2021, God finally took our*

family to the South Korean embassy in XXX and put us on a plane bound for South Korea. On that day, God eventually did something to our family that no president or parent could understand or no extraordinary people could do for us. After safely staying in the XXX prison for

seven months, we were sent to the South Korean embassy in XXX. Finally, on XXX, 2021, my family arrived at the Incheon International airport. All my dreams finally came true. People! God is always listening to your prayers. God always answers your prayers. Thank you.

THANK YOU for giving me this opportunity to submit this testimony. -Suzanne Scholte

*SBS News Report with then Gen. Robert Abrams led U.S. Forces Korea, United Nations Command and Combined Forces Command describing border buffer zone

https://news.sbs.co.kr/news/endPage.do?news_id=N1005976596&plink=LINK&cooper=YOUTUBE

and Daily NK Report on the directive <https://www.dailynk.com/english/north-korea-sets-up-strict-security-zones-sino-north-korean-border/>

** South Korean maritime official shot dead: <https://www.straitstimes.com/asia/east-asia/north-korea-shot-dead-missing-south-korean-man-in-its-waters-seoul>

***TLHR Commission Hearing with testimony of Kim Family

<https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/Suzanne%20Scholte%20Witness%20Testimony.pdf>

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**United States House of Representatives
Congressional-Executive Commission on China**

“Truth in Testimony” Disclosure Form

In accordance with Rule XI, clause 2(g) of the Rules of the House of Representatives, witnesses are asked to disclose the following information. Please complete this form and attach it to your written testimony and it may be made publicly available in electronic format.

1. Date of Hearing:

2. Hearing Title:

3. Your Name:

4. Organization, organizations, or government entity you are representing:

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6. Are you an active registrant under the Foreign Agents Registration Act (FARA)?
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False Statement Certification:

Knowingly providing material false information to this commission, or knowingly concealing material information from this commission, is a crime (18 U.S.C. 1001). This form may be made part of the hearing record.

Witness Signature

Date

*Witness Biographies***Robert R. King, Former Special Envoy for North Korean Human Rights Issues, U.S. Department of State**

Ambassador Robert R. King served as Special Envoy for North Korean human rights issues at the U.S. Department of State (2009–2017). Since that time, he has been a senior advisor to the Korea Chair at the Center for Strategic and International Studies (CSIS), a senior fellow at the Korea Economic Institute, and a board member of the Committee for Human Rights in North Korea. Previously, Ambassador King served for 25 years on Capitol Hill (1983–2008) as chief of staff to Congressman Tom Lantos (D–California) and as Democratic staff director of the House Foreign Affairs Committee (2001–2008). King is the author of *Patterns of Impunity: Human Rights in North Korea and the Role of the U.S. Special Envoy*. With Gi-Wook Shin he edited *The North Korean Conundrum: Balancing Human Rights and National Security*. (Both are published by the Walter H. Shorenstein Asia and Pacific Research Center at Stanford University.)

Jung-Hoon Lee, Dean, Graduate School of International Studies, Yonsei University & Former South Korean Ambassador-at-Large for North Korean Human Rights

Jung-Hoon Lee is the Dean and Professor of International Relations at the Graduate School of International Studies, Yonsei University. He is the former Ambassador for Human Rights for the Republic of Korea as well as its inaugural Ambassador-at-Large for North Korean Human Rights. His academic affiliations include a visiting professorship at Keio University and he is a Senior Fellow at Harvard Kennedy School. Prof. Lee currently advises the government as Chair of the National Unification Advisory Council's International Affairs Committee, Chair of the Ministry of Unification's newly created Commission for North Korean Human Rights, and Policy Advisor to the National Security Council. Internationally, he is a Board Member of the Committee for Human Rights in North Korea (HRNK) in Washington, DC, an International Patron of the Hong Kong Watch in London, and an Advisory Council Member of the International Bar Association's Human Rights Institute, also based in London. He received his BA from Tufts University, M.A.L.D. from the Fletcher School of Law & Diplomacy, and D.Phil. from the University of Oxford (St. Antony's College).

Ethan Hee-Seok Shin, Legal Analyst, Transitional Justice Working Group

Dr. Ethan Hee-Seok Shin is a legal analyst at Seoul-based human rights documentation NGO Transitional Justice Working Group (TJWG). He has been interviewing North Korean escapees who make their way to South Korea through China to record enforced disappearances and other grave human rights violations, made submissions to the UN human rights experts on their behalf and set up FOOTPRINTS, an online database of the people taken by North Korea. He is an advocate for ending China's policy of indiscriminate refoulement for North Korean refugees without individualized determination and has helped raised the issue recently at the UN Committee on the Elimination of Discrimination against Women (CEDAW). He holds a Ph.D. in international law from Yonsei University in South Korea and an LL.M. from Harvard Law School.

Hanna Song, Director of International Cooperation, Database Center for North Korean Human Rights

Hanna Song is the Director of International Cooperation and a researcher at the Seoul-based North Korean human rights NGO, the Database Center for North Korean Human Rights (NKDB). NKDB, officially established in 2003, has recorded over 130,000 entries related to human rights violations in its database, carries out advocacy based on the data, and also provides resettlement support to North Korean escapees. NKDB has interviewed over 20,000 North Korean escapees who have resettled in South Korea. Through interviewing North Korean escapees who have recently entered South Korea since the pandemic, NKDB has been able to examine the current situation on the ground in China and how COVID-19 has changed the landscape of North Korean defection. As Director, Ms. Song has briefed diplomats, policymakers, and foreign correspondents on the human rights situation in North Korea. She has created partnerships with international stakeholders, with research institutions, universities, and NGOs overseas. As a researcher, she has documented

human rights violations in NKDB's Unified Human Rights Database—the largest repository on North Korean human rights violations. She has published reports on the human rights situation in North Korea's military, humanitarian assistance sent to North Korea, the Sustainable Development Goals, and the Universal Periodic Review. She has appeared in *The Economist*, *Financial Times*, and *BBC* among other international news outlets.

